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ACTS OF ASSEMBLY

AND

ORDINANCES OF COUNCILS

RELATING TO

FAIRMOUNT PARK

HUNTING PARK

BURHOLME PARK

COBB'S CREEK PARK

MORRIS PARK

PENNYPACK PARK

WISTER'S WOODS

AND

FISHER PARK

UNDER THE CONTROL OF THE

COMMISSIONERS OF FAIRMOUNT PARK

*James H. ...*

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# FAIRMOUNT PARK

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## ACTS OF ASSEMBLY

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*Act of February 2, 1854. P. L. 43.*

SECT. 39. \* \* \* *And provided, also,* That it shall be the duty of the City Councils to obtain, by dedication or purchase, within the limits of the said City, an adequate number of squares or other areas of ground, convenient of access to all its inhabitants, and lay out and maintain such squares and areas of ground as open public places, for the health and enjoyment of the people forever.<sup>1</sup>

Councils required to obtain, and lay out public squares and parks.

<sup>1</sup> See ordinance of September 28, 1853, creating Fairmount Park, post, page 57.

*Act of May 13, 1857. P. L. 489.*

SECT. 4. That the Councils of said City, whenever they shall select any square or other area of ground to be laid out and maintained forever as an open public place or park, for the health and enjoyment of the people, shall have the power, if they cannot agree with the owner or owners thereof as to price, to cause a petition to be filed in the Court of Quarter Sessions of the City and County of Philadelphia, on behalf of said City, setting forth by proper metes and bounds the ground so selected, and that by ordinance the said Councils have appropriated the same for said purpose; whereupon the said court shall appoint a jury to assess the damages in the manner now provided by law, and the proceedings thereupon shall be the same and with the like effect as upon the assessment of damages for the opening of streets in said City.

See also Act of June 8, 1895, post, page 34, and Act of June 26, 1895, post, page 38.

For additional authority of cities to acquire property for parks, parkways and land abutting thereon, see Act of June 8, 1907, post, page 52.

*Act of March 26, 1867. P. L. 547.*

## AN ACT

Appropriating ground for public purposes, in the City of Philadelphia.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of same,* That the title to, and ownership of, the area of ground which is bounded as follows:<sup>1</sup> Beginning at Boundaries of Fairmount Park described. a point on the river Schuylkill, at the intersection of the north line of Bridge street and low water mark in said river; thence along said north line of Bridge street, to Bridgewater street; thence along the easterly side of Bridgewater street, to north line of Haverford street, as now used; thence along the northeast line of said Haverford street to the Pennsylvania railroad; thence along said Pennsylvania railroad, to the Junction railroad; thence along the said Junction railroad, its several courses and distances; to a point where it intersects Girard avenue; thence westwardly, along the north line of Girard avenue, to Forty-first street; thence northward, along Forty-first street, to Lansdowne avenue; thence along said Lansdowne avenue, westwardly, to Belmont avenue; thence along said Belmont avenue northwardly, to Montgomery avenue; thence eastward, along said Montgomery avenue, in a direct line, to the water line of Fairmount dam; thence down the river Schuylkill, along the low water line thereof,

<sup>1</sup>Boundary of the Park modified by Act of April 14, 1868, Sec. 1, post, page 8. See also Sec. 4 of said Act, post, page 11.

Franchises of Schuylkill Navigation Company, Pennsylvania, Junction and Connecting Railroad Companies, excepted.

to the place of beginning, excepting therefrom and thereout, that part of which the Schuylkill Navigation, the Pennsylvania Central, the Junction and the Connecting Railroad Companies, are respectively seized, for the execution of their franchises,<sup>2</sup> shall be vested in the City of Philadelphia, to be laid out and maintained forever, as an open public place and park, for the health and enjoyment of the people of said city, and the preservation of the purity of the water supply of the City of Philadelphia.

Commissioners.

SECT. 2. That the Mayor, the Presidents of the Select and Common Councils, Commissioner of City Property, the Chief Engineer and Surveyor, and the Chief Engineer of the Water Works of said city, together with ten citizens of said city, who shall be appointed for five years, five of them by the District Court, and five of them by the Court of Common Pleas of said city, be, and the same are hereby constituted Commissioners of said Park; they shall organize annually on the first Monday of June, by the election of a president and secretary,<sup>3</sup> but they shall receive no compensation for their services as Commissioners: *Provided*, That whenever a vacancy shall occur in that part of the said Commissioners appointed by the courts, the court from which the appointment was made shall fill the vacancy.

To organize annually.

To receive no compensation.

Vacancies, how filled.

Owners of ground to be paid for the same by the city.

SECT. 3. That the owners of the said ground,<sup>4</sup> by the first section of this act appropriated for public purposes,

<sup>2</sup>See also Sec. 3 of Act of April 14, 1868, post, page 11.

<sup>3</sup>So much of the section as requires that the Secretary shall be chosen from the Commissioners, repealed by Act of April 14, 1868, Sec. 12, post, page 15.

<sup>4</sup>A tenant for years is such an owner: 4 Wh. 90; 8 H. 91; 10 H. 29; 1 C. 229; 16 P. F. Smith, 425. A ground landlord is not such an owner: 6 C. 362. See 28 Leg. Int. 356. The purchaser of an estate cannot claim damages for an injury done to it before his purchase. Such claim remains in the hands of the vendor: 10 H. 32.

shall be paid<sup>5</sup> for the same by the City of Philadelphia, according to the value<sup>6</sup> which shall be ascertained by a jury of twelve<sup>7</sup> disinterested freeholders, to be appointed<sup>8</sup> by the Court of Quarter Sessions of said city, upon the petition of said Commissioners; and if the said Commissioners shall delay petitioning as aforesaid for the period of sixty days after notice given of their taking possession of said ground, then said jury shall be appointed upon the petition of any person whose property shall be so taken: *Provided, however,* That in any case the said Commissioners may negotiate and agree with the owners of any part of said ground as to the price thereof, and said price shall be reported to the said Court of Quarter Sessions, and if confirmed and approved by said court, shall be conclusive upon said city: *And provided further,* That whenever it shall be necessary to have recourse to a jury to assess the damages for any property to be taken as aforesaid [the said jury shall estimate the advantage to property adjoining or in the vicinity<sup>9</sup> and]<sup>10</sup> said jury<sup>11</sup>

Value, how ascertained.

Commissioners to petition for jury.

Owners may petition for jury if Commissioners delay for sixty days.

Commissioners may negotiate and agree with owners of ground.

Jury to assess advantages upon land adjoining and in the vicinity of the Park.

<sup>5</sup>Either under the Act of April 14, 1863, or by a common law action of debt, the land owner may recover the damages assessed or agreed on immediately upon confirmation of the report relating to damages: 18 P. F. Smith, 49.

<sup>6</sup>The basis of compensation is not to be measured solely by the value of the land taken. The advantages, likely to accrue, enter largely into the estimate: 4 H. 192; 11 Wright, 435; 29 Leg. Int. 220.

<sup>7</sup>Reduced to six by Sec. 10 of the Act of April 14, 1868, post, page 14.

<sup>8</sup>See Act of January 27, 1870, Sec. 3, post, page 29.

<sup>9</sup>The term vicinity does not denote any particular, definite distance from the Park: 6 H. 26. Such assessments are constitutional: 3 W. 296; 7 Barr, 175; 6 H. 26; 3 Philadelphia, 265; 11 C. 231; 22 Leg. Int. (1865) 365; 4 N. Y. (4 Comst.) 419; 8 Wendell, 85; Ibid. 101; 3 Paige, 45; 7 Hill, 9; 5 Ohio State Reports, 636; 19 Ohio, 418; 26 Ill. 351; 30 Mo. 537.

<sup>10</sup>Repealed by Act of June 15, 1871, post, page 33.

<sup>11</sup>See Act of January 27, 1870, Sec. 3, post, page 29.

And proceed according to the road laws.

shall proceed and their award shall be reviewed and enforced in the same manner as provided by law in the opening of roads in the City of Philadelphia.<sup>12</sup>

Commissioners to adopt plan for improvement, etc., of Park.

Expenditure of all moneys to be under their supervision.

No contract to be made before appropriation is made.

SECT. 4. That the Commissioners of the said Park, after they shall have secured possession of the ground, shall adopt a plan for the improvement and maintenance thereof, and shall have power to proceed with the same, and all moneys expended shall be under their supervision, but no contracts shall be made for said improvement unless an appropriation therefor shall have been first made by the Councils of said city.<sup>13</sup>

Commissioners to have care of Fairmount Park and all plans to be under their control.

SECT. 5. That as soon as the said Commissioners shall have fully organized, they shall have the care and management of Fairmount Park, on both banks of the river Schuylkill, and all plans and expenditures for the improvement and maintenance of the same shall be under their

<sup>12</sup>See Act of April 14, 1868, Sec. 10, post, page 14. See also 18 P. F. Smith, 47. When the Court of Quarter Sessions have appointed a full set of jurors, one or more of the number may be stricken off and others substituted, and it is not necessary to give notice that it will be done: 3 C. 69. The jury must be sworn before they enter upon their duties: 2 P. R. 207. And it must be stated in the report: 3 S. & R. 210. See 4 Wh. 514. Any of the jurors are competent to administer an oath to one of their number: 2 C. 222. The report of the jury must be accompanied by a draft: 3 Binney, 3; 10 S. & R. 120. Five of the six jurors appointed must view the property: 6 H. 220; 3 C. 69. All the jurors must deliberate, but a majority may decide: 5 C. 20. It is no objection to the report of viewers appointed to assess damages, that they conversed with the owners of property adjoining, in the absence of the parties interested. An inquest of this sort is restrained to no peculiar species of evidence, and may resort to any source of information which the members of it may think proper, even the evidence of their senses: 4 R. 192. The jury are to judge for themselves on view of the premises, and not by the opinions of witnesses: 2 Wh. 277. The jury are to consider the matter just as if they were called on to value the injury at the moment when compensation could first be demanded: 11 Wr. 434.

<sup>13</sup>See Act of April 14, 1868, Sec. 11, post, page 14, and Sec. 19, post, page 17.

control, subject to such appropriations as Councils may from time to time make as aforesaid.<sup>14</sup>

[SECT. 6. That the Commissioners of said Park are hereby further empowered, whenever the Councils of the City of Philadelphia shall so declare by ordinance, to take such other land as may be deemed proper by said Councils for the extension of said Fairmount Park, between the Spring Garden Water Works and the Columbia Bridge and between the Reading Railroad and the river Schuylkill, according to the value which shall be ascertained by a jury of twelve disinterested freeholders, to be appointed by the Court of Quarter Sessions of said city upon the petition of said Commissioners; and if the said Commissioners shall delay petitioning as aforesaid for a period of sixty days after notice given of their taking possession of said ground, then said jury shall be appointed upon the petition of any person whose property shall be so taken. *Provided, however,* That in any case the said Commissioners may negotiate directly and agree with the owners of any part of said ground as to the price thereof, and said price shall be reported to the said Court of Quarter Sessions, and if confirmed or approved by said court, shall be conclusive upon said city: *And provided further,* That whenever it shall be necessary to have recourse to a jury to assess the damages for any property to be taken as aforesaid, the said jury shall estimate the advantage to property adjoining or in the vicinity, and said jury shall proceed, and their award shall be reviewed and enforced in the same manner as provided by law in the opening of roads in the City of Philadelphia.]<sup>15</sup>

Commissioners authorized (when Councils shall so declare) to take other land for extension of Park.

Proviso.

Proviso.

<sup>14</sup>See preceding section.

<sup>15</sup>The provisions of this section are supplied by subsequent legislation. The land referred to therein is included within the Park boundaries by the Act of April 14, 1868, Sec. 1, post, page 8, and the other provisions are also supplied by the Act of April 14, 1868, Sec. 5, post, page 12, and Sec. 26, post, page 21, and the Act of March 26, 1867, Sec. 3, ante, page 4.

*Act of April 14, 1868. P. L. 1083.*

## A SUPPLEMENT

To an act, entitled "An act appropriating ground for public purposes, in the City of Philadelphia," approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the boundaries of the Fairmount Park in the City of Philadelphia shall be the following, to wit: Beginning at a point in the northeasterly line of property owned and occupied by the Reading Railroad Company, near the City bridge over the river Schuylkill at the Falls, where said northeasterly line [is intersected by the line dividing property of H. Duhring from that of F. Stoeber and T. Johnson; extending]<sup>1</sup> from thence in a southwesterly direction upon said dividing line and its prolongation to the middle of the Ford road; from thence by a line passing through the southeast corner of Forty-ninth and Lebanon streets to George's run; thence along the several courses of said run to a point fourteen hundred and eighty-seven and a half feet from the middle of the Pennsylvania railroad, measured at right angles thereto; thence by a straight line through the northeast corner of Forty-third and Hancock streets to the northerly side of Girard avenue near Fortieth street; thence by the said northerly side of Girard avenue to the easterly side of

Boundaries  
of Fairmount  
Park de-  
fined.

<sup>1</sup>Amended by Act of April 21, 1869, Sec. 8, post, page 26.

the Junction railroad as now used; thence by the said easterly side of the Junction railroad and the Pennsylvania railroad to the north side of Haverford street; thence by the northerly side of said Haverford street to the westerly side of Bridgewater street; thence by said Bridgewater street to the north line of Bridge street; thence by said Bridge street to the west abutment of the Suspension bridge; thence by the northwesterly side of the Suspension bridge and Callowhill street to the angle in said street, on the southwesterly side of Fairmount basin; thence by the northerly side of Callowhill and Biddle streets to the westerly side of Twenty-fifth street; thence by the said Twenty-fifth street to the southwesterly side of Pennsylvania avenue; thence by the southwesterly side of Pennsylvania avenue to the west side of Thirty-third street; thence along the westerly side of Thirty-third street to the southwesterly line of Ridge avenue; thence along said Ridge avenue to the southwesterly line of South Laurel Hill Cemetery (north of Huntingdon street); thence by and along said property line to such a distance from the shore line of the river Schuylkill as will permit the location of a carriage road one hundred feet wide upon its margin; thence along said river shore and its several courses as may be most practicable, at the same distance as above specified (provided said distance shall not exceed one hundred and fifty feet), to a point opposite the intersection of the Ridge turnpike and School lane; thence northwardly to a point on the southwesterly side of said turnpike road opposite to the southeasterly side of said School lane; thence by the southwesterly side of the Ridge turnpike road and its several courses to the southeasterly side of the Wissahickon creek; thence by the several courses of the said southeasterly side of Wissahickon creek to the Schuylkill river; thence across the water course of said river to the northeasterly line of the Reading Railroad Company's

property as now occupied and in use, at the City boundary line; thence along said northeasterly line, as now occupied and used by said railroad company, to the place of beginning;<sup>2</sup> excepting, nevertheless, thereout the several water works and their appurtenances, which are included within these boundaries, and such uses of the premises immediately adjacent to the same, and such other portions of the ground as are described in the plan, as the City of Philadelphia may from time to time require for the purposes of its water department.<sup>3</sup>

Water works  
excepted.

Roberts'  
Hollow  
drive au-  
thorized.

SECT. 2. That there shall be laid out and constructed a road of easy and practicable grades extending from the intersection of the northerly line of the Park by Belmont avenue on the westerly side of the river Schuylkill to the head of Roberts' Hollow, and thence along said hollow and the river Schuylkill to the foot of City avenue, laid out with the ground contiguous thereto for ornamentation, of such width and so constructed as the Commissioners of Fairmount Park, appointed under authority of the Act of the General Assembly of the Commonwealth,<sup>4</sup> may determine. And such road and its contiguous ground are hereby declared to be a part of the aforesaid Park; and said Park Commissioners are hereby authorized and required to ascertain, by a proper survey, the limits thereof, which survey they shall file in the Survey Department of the City of Philadelphia. And it shall also be the duty of said Park Commissioners to appropriate the shores of the Wissahickon creek on both sides of the same from its mouth to the Paul's Mill road, and of such width as may

And declared  
part of the  
Park.

Commis-  
sioners to  
make and  
file survey  
thereof.

Wissahickon  
creek and its  
shores ap-  
propriated.

<sup>2</sup>See Act of April 21, 1869, Sec. 2, post, page 23, and Sec. 5, post, page 25.

<sup>3</sup>See, for further exceptions, Act of April 14, 1868, Sec. 3, post, page 11. See also Act of March 15, 1871, Sec. 1, post, page 32, and Act of March 26, 1867, Sec. 1, ante, page 3.

<sup>4</sup>See Act of March 26, 1867, Sec. 2, ante, page 4.

embrace the road now passing along the same; and may also protect the purity of the water of said creek, and by passing along the crest of the heights which are on either side of said creek, may preserve the beauty of its scenery. The said Park Commissioners are hereby authorized and required to cause a proper survey to be made of said grounds upon the Wissahickon, and to file said survey in the Survey Department of the City of Philadelphia, and the grounds and creek hereby appropriated are declared to be a part of Fairmount Park.

Commissioners to make and file survey thereof.

Declared part of the Park.

SECT. 3. That the title to and ownership of the ground within said boundaries shall be vested<sup>5</sup> in the City of Philadelphia, excepting therefrom so much as shall be required by the Schuylkill Navigation Company, the Philadelphia and Reading, the Junction and Connecting Railroad Companies for the execution of their franchises as now provided by law.<sup>6</sup>

Title to Park vested in the city. Excepting franchises of Schuylkill Navigation, Philadelphia and Reading, Junction and Connecting Railroad Companies.

SECT. 4. So much of the ground as was embraced in the act to which this is a supplement, approved the twenty-sixth day of March, one thousand eight hundred and sixty-seven, and is not included in the above boundaries,<sup>7</sup> is

Claim of city to portion of ground embraced in Act of 1867 released.

<sup>5</sup>Land taken for public use is divested of all liens and incumbrances: 24 Leg. Int. 61; 27 Leg. Int. 61. But the court will not award the damages assessed, without inquiring whether there are any incumbrances, and if there are, an equitable distribution of the fund will be made: 1 Ashmead, 276; 5 Wr. 470. The power of the court must be exercised before the report of the jury is confirmed: 4 P. L. J. 468. Where damages have been assessed or agreed on for land taken for Fairmount Park, the land is vested in the City of Philadelphia, and if the land owner continues in possession, it is at sufferance, and he can be turned out at any time: 18 P. F. Smith, 49. See also Act of April 21, 1869, Sec. 4, post, page 24, and Act of April 14, 1868, Sec. 9, post, page 13.

<sup>6</sup>See Act of April 14, 1868, Sec. 1, ante, page 10, for further exception.

<sup>7</sup>See ante, Sec. 1, page 8, and Sec. 2, page 10.

hereby released from all claim of title by the said city, with the same effect as if it had never been included.<sup>8</sup>

All Park grounds to be subject to all powers conferred by the Act of 1867.

And owners of ground shall be compensated as therein provided.

Commissioners may vacate streets, except Girard avenue, and open other roads, etc.

Councils shall cause alterations of the plan of survey in the 24th, 20th and 28th Wards.

SECT. 5. That all the grounds taken within the boundaries of the Fairmount Park by the first section of this act, shall be subject to all the powers and control given by the act to which this is a supplement to the City of Philadelphia and the Park Commissioners designated by or appointed under said act;<sup>9</sup> and the owners of all ground taken for the Park, and others interested therein, shall be compensated as in said act is directed and provided.<sup>10</sup>

SECT. 6. The said Commissioners shall have power and authority, from time to time, to vacate any street or road within the boundaries of the Park (excepting Girard avenue), and to open for public use such other roads, avenues and streets therein as they may deem necessary.

SECT. 7. The Councils of the City of Philadelphia shall cause, under the supervision of the Department of Surveys, such alterations of the plan of survey of the Twenty-fourth Ward as lies between Fairmount Park as by this act established, the Pennsylvania railroad and the City avenue, and of the contiguous parts of the Twentieth<sup>11</sup> and Twenty-eighth Wards, as may become necessary or expedient by reason of the extension as aforesaid of the limits of the Fairmount Park, and cause the same to be estab-

<sup>8</sup>See Act of March 26, 1867, Sec. 1, ante, page 3. This release applies only to the triangular piece of ground bounded by Girard avenue, Forty-first street and Parkside avenue.

<sup>9</sup>Act of March 26, 1867, ante, page 3. See also Act of April 21, 1869, Sec. 8, post, page 26.

<sup>10</sup>See Act of April 14, 1868, Sec. 26, post, page 21. See also Act of March 26, 1867, Sec. 3, ante, page 4.

<sup>11</sup>A new ward has been created out of that part of the Twentieth Ward contiguous to the Park, since this act was passed, called the Twenty-ninth Ward.

lished in manner as now provided by law for revising or laying out plans of survey in and for the City of Philadelphia; and shall lay out an avenue as one of the streets of the city, of the width of not less than one hundred feet, as a boundary of the Park on the southwest, west and north-west sides thereof, extending from Girard avenue to the river Schuylkill, at or near the Falls Bridge; and also upon the eastern side of the river from the intersection of Pennsylvania avenue and Thirty-third street, northward along the boundary of said Park to the river Schuylkill.

And lay out a boundary avenue around the Park.

SECT. 8. The jurisdiction of the Commissioners of the Park shall extend to the breadth of the footway next the Park, in all avenues or streets which shall bound upon the Park, and they shall direct the manner in which such footways shall be laid out, curbed, paved, planted and ornamented; which footways shall not be less than twenty feet in width on any avenue or street of the width of one hundred feet, and of like proportion upon any street or avenue of a greater or less width, unless otherwise directed by the Commissioners.

Jurisdiction of Commissioners shall extend over footway of boundary avenues next the Park. Width of footways.

SECT. 9. The said Park Commissioners or jury who shall assess the compensation to the owners for the ground taken, shall ascertain and make compensation for buildings,<sup>12</sup> as well as the ground taken; but all buildings and machinery and fixtures not required by the Park Commissioners shall be removed by the owners thereof whenever payment of the compensation awarded them shall be made or tendered to them; and upon such payment or tender, the Park Commissioners shall forthwith take possession of the premises.<sup>13</sup> If any owner or lessee of ground taken cannot be found, notice of the taking and valuation

Compensation to be made for buildings, as well as ground taken. Buildings, machinery and fixtures not required by Commissioners to be removed by owners, whenever payment of damages is tendered them. Proceedings where owner or lessee of ground taken cannot be found.

<sup>12</sup>See Act of March 15, 1871, Sec. 1, post, page 32.

<sup>13</sup>See ante, page 11, note 5. See also Act of April 21, 1869, Sec. 4, post, page 24.

of his land shall be given by advertisement in two daily papers, published in Philadelphia, six times, and in the *Legal Intelligencer* twice; and the amount awarded in such case to the owner or lessee shall remain in the city treasury, until such owner shall produce the decree of the court having jurisdiction in the premises, ordering the said moneys to be paid to him or his legal representatives.

Commissioners and jury may make partial reports.

Powers of the jury to continue until they have reported on all their cases, unless otherwise ordered by the court.

Six jurors may be appointed on one or more cases.

Valuation forthwith payable upon confirmation of the report.

City to raise money by loans for all grounds; the laying out and construction, permanent

SECT. 10. The said Commissioners and jury may make partial or special reports, from time to time, to the court, as they may be ready to do so, and the court may act upon such reports separately;<sup>14</sup> and the powers of the jury shall continue, unless limited by the court, or they be required by the court to make report, until they shall have reported on all the cases on which they have been appointed, although a term or terms of the court shall have intervened; and jurors, not to exceed six in number, may be appointed upon one or more cases, according to the order of the court made; and whenever any report of the said Commissioners or of the jury shall have been confirmed by the court, the valuation made shall be forthwith payable by the City of Philadelphia.<sup>15</sup>

SECT. 11. The City of Philadelphia shall be authorized and required to raise by loans, from time to time, such sums of money<sup>16</sup> as shall be necessary to make compensation for all grounds heretofore taken or to be taken for

<sup>14</sup>See Act of January 27, 1870, Sec. 1, post, page 23. See also ante, page 6, note 12.

<sup>15</sup>The Legislature may direct the *time* for paying damages assessed for taking property for public use: 18 P. F. Smith, 45. The price of land taken for Fairmount Park as agreed upon with the Commissioners bears interest from the day of the confirmation of their report by the court, not from the date of the agreement: Ibid. 48. As to interest on awards made after April 21, 1869, see Act of April 21, 1869, Sec. 9, post, page 27.

<sup>16</sup>See Act of April 21, 1869, Sec. 3, post, page 24.

said Fairmount Park, and for the laying out and construction thereof for public use; for the permanent care and improvement thereof, and for all culverts and other means for preserving the Schuylkill water pure for the use of the citizens of said city, and shall annually assess taxes for keeping in repair and good order the said Park; and shall also provide for the payment of the interest on all said loans, and the usual sinking fund for the redemption thereof.

care and improvement thereof, and for all culverts.

Shall assess taxes for keeping the Park in repair, and provide for payment of interest, and loans.

SECT. 12. The said Park Commissioners shall, from time to time, appoint such officers, agents and subordinates as they may deem necessary, for the purposes of this act and the act to which this is a supplement;<sup>17</sup> and they shall prescribe the duties and the compensation to be paid them; and so much of the second section<sup>18</sup> of the act to which this is a supplement, as requires that the Secretary shall be chosen from the Commissioners, be and the same is hereby repealed.

Commissioners to appoint officers, agents, etc., and prescribe their duties and compensation.

Repeal of provision of Act of 1867, relating to election of Secretary.

SECT. 13. It shall be lawful for said Park Commissioners to acquire title to the whole of any tract of land, part of which shall fall within the boundaries mentioned in the first section of this act, and to take conveyance thereof in the name of the City of Philadelphia; and such part thereof as shall lie beyond or [within]<sup>19</sup> the said Park limits, again to sell and convey in absolute fee simple to any purchaser or purchasers thereof, by deeds to be signed by the Mayor, under the seal of the City, to be affixed by direction of Councils; either for cash, or part cash and part to be secured by bond and mortgage to the city, paying

Commissioners may acquire the whole of a tract of land where part of it lies within the Park.

And sell parts thereof lying outside the Park.

Terms of sale.

<sup>17</sup>See Act of April 14, 1868, Sec. 27, post, page 21, and also Act of January 27, 1870, Sec. 5, post, page 29.

<sup>18</sup>Ante, page 4.

<sup>19</sup>Altered to "without" by Sec. 2, of the Act of January 27, 1870, post, page 28.

Proceeds of sales to be paid into the sinking fund.

No Commissioner or officer shall be interested in such sales under penalty of discharge.

Commissioners to report annually to the Mayor.

May lease houses, etc., within Park limits

To collect rents and pay them into City Treasury.

Buildings erected on Park grounds by boat clubs, etc., relative to.

all cash into the city treasury: *Provided*, That the proceeds of such sales shall be paid into the sinking fund for the redemption of the loan created under the provisions of this act: *Provided also*, That no Commissioner, nor any officer under the Park Commission, shall in any wise be directly or indirectly interested in any such sale of lands by the Commissioners as aforesaid; and if any Commissioner or officer aforesaid shall act in violation of this proviso, he shall, if a Commissioner, be subject to expulsion; if an officer, to be discharged by a majority of votes of the Board of Park Commissioners, after an opportunity afforded of explanation and defence.

SECT. 14. The said Board of Commissioners shall, annually hereafter, [in the month of December, make, to the Mayor of the City of Philadelphia,]<sup>20</sup> a report of their proceedings, and a statement of their expenditures for the preceding year.

SECT. 15. The said Park Commissioners shall have exclusive power to lease from year to year, all houses and buildings within the Park limits, which may be let without prejudice to the interests and purposes of the Park, by leases to be signed by their President and Secretary, and to collect the rents and pay them into the city treasury.

SECT. 16. All houses and buildings now built or to be built on any part of the Park grounds, by or for boat or skating clubs, or zoological or other purposes shall be taken to have rights subordinate to the public purposes intended to be subserved by acquiring and laying out the Park, and shall be subject to the regulations of said Park Commissioners, under licenses which shall be approved by the Commission, and signed by the President

<sup>20</sup>Amended by Sec. 4, of the Act of January 27, 1870, to read "to the Councils of the City of Philadelphia during the month of January." See post, page 29.

and Secretary, and will subject them to their supervision and to removal, or surrender to the city, whensoever the said Commissioners may require.

SECT. 17. The said Park Commissioners shall have power to accept, in the name and behalf of the City of Philadelphia, devises, bequests and donations of lands, moneys, objects of art and natural history, maps and books, or other things, upon such trusts as may be prescribed by the testator or donor: *Provided*, Such trusts be satisfactory to the Commission, and compatible with the purposes of said Park.

Commissioners may accept devises, etc., of property in trust for the purposes of the Park.

SECT. 18. None of the Park Commissioners, nor any person employed by them, shall have power to create any debt or obligation to bind said Board of Commissioners, except by the express authority of the said Commissioners at a meeting duly convened.

Debts to be created only by Commissioners at a regular meeting.

SECT. 19. The said Park Commissioners shall have the power to govern, manage, lay out, plant and ornament the said Fairmount Park, and to maintain the same in good order and repair;<sup>21</sup> and to construct all proper bridges, buildings, railways,<sup>22</sup> and other improvements therein, and to repress all disorders therein under the provisions hereinafter contained.<sup>23</sup>

Commissioners to have power to manage and lay out the Park.

SECT. 20. That the said Park Commissioners shall have authority to license the laying down, and the use for a term of years, from time to time, of such passenger railways as they may think will comport with the use and enjoyment of the said Park by the public, upon such terms as said Commissioners may agree; all emoluments from which shall be paid into the city treasury.<sup>24</sup>

Commissioners may license passenger railways in the Park.

<sup>21</sup>See also Act of March 26, 1867, Sec. 4, ante, page 6, and Sec. 5, ante, page 6.

<sup>22</sup>See Act of March 16, 1870, Sec. 1, post, page 30.

<sup>23</sup>See post, Sec. 21.

<sup>24</sup>See Sec. 23, post, page 20.

Rules and regulations.

SECT. 21. The said Park shall be under the following rules and regulations, and such others as the Park Commissioners may from time to time ordain:

Cattle, goats, swine, horses, etc.

I. No persons shall turn cattle, goats, swine, horses or other animals loose into the Park.

Fire-arms, throwing stones, etc.

II. No persons shall carry fire-arms, or shoot birds in the Park, or within fifty yards thereof, or throw stones or other missiles therein.

Defacing trees, buildings, etc., and fouling springs, etc.

III. No one shall cut, break, or in anywise injure or deface the trees, shrubs, plants, turf, or any of the buildings, fences, structures or statuary, or foul any fountains or springs within the Park.

Rate of speed.

IV. No person shall drive or ride therein at a rate exceeding seven miles an hour.

Driving off roads.

V. No one shall ride or drive therein, upon any other than upon the avenues and roads.

Vehicles used for hire.

VI. No coach or vehicle used for hire, shall stand upon any part of the Park for the purpose of hire, nor except in waiting for persons taken by it into the Park, unless in either case at points designated by the Commission.

Vehicles of burden.

VII. No wagon or vehicle of burden or traffic shall pass through the Park, except upon such road or avenue as shall be designated by the Park Commissioners for burden transportation.

Street railroad cars.

VIII. No street railroad car<sup>25</sup> shall come within the lines of the Park without the license of the Park Commission.

Articles exposed for sale.

IX. No person shall expose any article for sale within the Park without the previous license of the Park Commission.

<sup>25</sup>See Act of March 16, 1870, post, page 30.

X. No person shall take ice from the Schuylkill within the Park without the license of the said Commission first had, upon such terms as they may think proper.

XI. No threatening, abusive, insulting, or indecent language shall be allowed in the Park. Indecent language, etc.

XII. No gaming shall be allowed therein, nor any obscene or indecent act therein. Gaming, obscenity, etc.

[XIII. No person shall go in to bathe within the Park.]<sup>26</sup> Bathing.

XIV. No person shall fish or disturb the water-fowl in the pool, or any pond, or birds in any part of the Park, nor discharge any fire-works therein, nor affix any bills or notices therein. Fish, water-fowl, birds, fire-works and notices.

XV. No person shall have any musical, theatrical, or other entertainment therein, without the license of the Park Commissioners. Entertainments.

XVI. No person shall enter or leave the Park except by such gates or avenues as may be for such purpose arranged. Entrance and exit.

XVII. No gathering or meeting of any kind, assembled through advertisement, shall be permitted in the Park without the previous permission of the Commission; nor shall any gathering or meeting for political purposes in the Park be permitted under any circumstances. Political and other meetings.

XVIII. That no intoxicating liquors shall be allowed to be sold within said Park. Intoxicating liquors.

SECT. 22. Any person who shall violate any of said rules and regulations, and any others which shall be ordained by the said Park Commissioners, for the government of said Park, not inconsistent with this act, or the laws and constitutions of this State and United States—the power to ordain which rules and regulations is hereby expressly given to said Commissioners—shall be guilty of Commissioners shall have power to ordain other rules.

<sup>26</sup>Repealed by Act of June 3, 1911, post, page 56.

Penalty for violation of rules.

How recovered.

All licenses may be with compensation.

Further liability for violation of rules.

Tenant shall forfeit lease, etc., for violation of rules.

Lease and license shall contain clause of forfeiture.

Park police shall arrest offenders without warrant.

And take them forthwith before a magistrate.

All rents, license charges, fines, etc., shall be paid

a misdemeanor, and shall pay such fine as may be prescribed by said Park Commissioners,<sup>27</sup> not to exceed five dollars for each and every violation thereof, to be recovered before any alderman of said city, as debts of that amount are recoverable, which fines shall be paid into the city treasury: *Provided*, That if said Park Commissioners should license the taking of ice in said Park, or the entry of any street railroad car<sup>28</sup> therein, or articles for sale, or musical entertainments, it may be with such compensation as they may think proper, to be paid into the city treasury: *And provided*, That any person violating any of said rules and regulations shall be further liable to the full extent of any damage by him or her committed, in trespass or other action; and any tenant or licensed party who shall violate the said rules, or any of them, or consent to or permit the same to be violated on his or her or their premises, shall forfeit his or her or their lease or license, and shall be liable to be forthwith removed by a vote of the Park Commission; and every lease and license shall contain a clause making it cause of forfeiture thereof for the lessee or party licensed to violate or permit or suffer any violation of said rules and regulations or any of them. It shall be the duty of the police appointed to duty in the Park, without warrant, forthwith to arrest any offender against the preceding rules and regulations, whom they may detect in the commission of such offence, and to take the person or persons so arrested forthwith before a magistrate having competent jurisdiction.

SECT. 23. All rents, license charges and fees; all fines, proceeds of all sales, except of lands purchased,<sup>29</sup> and profits of whatsoever kind to be collected, received, or

<sup>27</sup>The fine prescribed by the Commissioners is five dollars.

<sup>28</sup>See Act of March 16, 1870, post, page 30.

<sup>29</sup>See Sec. 13, ante, page 15.

howsoever realized, shall be paid into the city treasury, into the City treasury for Park purposes. as a fund to be exclusively appropriated by Councils for Park purposes, under the direction of said Commission: *Provided*, That moneys or property given or bequeathed Proviso. to the Park Commissioners upon specified trusts<sup>30</sup> shall be received and receipted for by their Treasurer, and held and applied according to the trust specified.

SECT. 24. That the Councils of the City of Philadelphia be and they are hereby authorized to widen and straighten any street laid out upon the public plans of said city, as they may think requisite to improve the approaches to Fairmount Park. Councils may improve approaches to the Park.

SECT. 25 That nothing in this act contained shall suspend or affect any proceeding pending in court under any existing law; but the same shall be proceeded in as if this act had not been passed. This act not to affect proceedings pending in court.

SECT. 26. The damages for ground and property taken for the purpose of this act shall be ascertained, adjusted and assessed in like manner as is prescribed by the act to which this is a supplement.<sup>31</sup> Land damages to be ascertained, etc., in same manner as provided in Act of 1867.

SECT. 27. The said Park Commissioners shall employ, equip, and pay a Park force, adequate to maintain good order therein and in all houses thereupon; which force shall be subject to the orders of the Mayor upon any emergency; and so far as said force shall consist of others than the hands employed to labor in the Park, it shall be appointed and controlled as the other police of the city. Park police. Shall be subject to the orders of the Mayor in any emergency. How appointed and controlled.

[SECT. 28. There shall be an additional assistant appointed by the City Solicitor, whose duty it shall be, under Park Solicitor.

<sup>30</sup>See Sec. 17, ante, page 17.

<sup>31</sup>See Act of March 26, 1867, Sec. 3, ante, page 4, and Act of April 14, 1868, Sec. 5, ante, page 12.

the direction of the City Solicitor, to attend to the assessments of damages, and to such other business of a legal nature connected with the Park as said Commissioners may require. ]<sup>32</sup>

<sup>32</sup>Repealed by the 5th section of the Act of January 27, 1870, post, page 29.

*Act of April 21, 1869. P. L. 1194.*

## A FURTHER SUPPLEMENT

To an act entitled "An act appropriating ground for public purposes in the City of Philadelphia," approved the twenty-sixth day of March, Anno Domini eighteen hundred and sixty-seven.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That it shall be lawful for the Fairmount Park Commissioners, in the name of the City of Philadelphia, to prevent and restrain the damage or the destruction of any trees and shrubbery upon any premises within the bounds described for the Fairmount Park, by the supplement to the act creating said Park, approved the fourteenth day of April, eighteen hundred and sixty-eight, although the compensation to the owners may not have been assessed or paid.

Commissioners may prevent damages to trees, etc., although land damages have not been assessed.

SECT. 2. That the Fairmount Park Commissioners shall have power, on behalf of the City of Philadelphia, to adjust the boundaries<sup>1</sup> of said Park with any railroad or canal company whose track, tow-path or canal navigation lies within or is bordering upon said Park, and with any other owner bounding upon the Park, and to receive and make the proper conveyances or releases in adjusting said boundaries as now provided by law,<sup>2</sup> and if an increase

May adjust boundaries of Park with railroad and canal companies and others.

To receive and make proper conveyances, etc.

<sup>1</sup>See post, page 25, Sec. 5.

<sup>2</sup>See Act of April 14, 1868, Sec. 13. ante, page 15.

of width be conceded to any company or companies, or individuals, or an exchange of property be made, it shall be at a rate of compensation not less than a just and proportionate share of the cost of the whole property paid at any time by the City of Philadelphia, with lawful interest thereon, which compensation shall be paid into the sinking fund of said city, for the extinguishment of the Park loan.

Rate of compensation for property released or exchanged.

To be paid into sinking fund.

All moneys raised for purchase of ground, etc., to be kept separately.

SECT. 3. That all moneys raised by the City of Philadelphia by loans for the purchase of grounds for the Fairmount Park, and the construction and laying out the same, shall be kept separately by the treasurer of the said city, and shall be appropriated and paid for no other purposes.<sup>3</sup>

Commissioners may take possession of property after sixty days' notice, although damages have not been assessed.

SECT. 4. It shall be lawful for the said Park Commission, after having given sixty days' notice of an intention so to do, to take actual possession of any lands or property included within the boundaries of the Park, although the compensation or damages for the said grounds or property may not have been assessed or paid;<sup>4</sup> and the City of Philadelphia shall thereupon become liable for the payment of the compensation or damages which may be awarded for taking such grounds, as of the date when said grounds and property were actually taken into possession, and with interest from such date: *Provided*, That before any such notice be given as hereinabove provided, the said Park Commissioners shall have made an application to the court for the appointment of a jury according to the provisions of law.<sup>5</sup>

In that event award to bear interest.

Commission shall first make application for appointment of jury.

<sup>3</sup>See Act of April 14, 1868, Sec. 11, ante, page 14.

<sup>4</sup>See ante, page 11, note 5. See also Act of April 14, 1868, Sec. 9, ante, page 13.

<sup>5</sup>See Act of March 26, 1867, Sec. 3, ante, page 4.

SECT. 5. If in laying out and adjusting the grades of the boundary avenues of Fairmount Park, the configuration of the ground shall make it advantageous to vary from the boundaries<sup>6</sup> as now authorized by law, said Park Commissioners are hereby authorized and empowered to negotiate and agree with any owner or owners of ground bounding upon the Park, and so required for the proper location and adjustment of said boundary avenues, as to the price and conveyance thereof; and to that end may take and receive additional ground, or make exchanges or releases as the case may require: *Provided*, That the area of the said Park shall not be increased thereby.

Commissioners may vary the boundaries of the Park in adjusting grades of boundary avenues, and take additional ground.

Provided the area of the Park is not increased.

In case of inability from any cause to fix the price of any land, or to adjust the terms of any exchange of ground required for the purpose aforesaid, the same shall be determined by a jury appointed for the purpose, in the manner provided in the act to which this is a supplement.<sup>7</sup>

If Commissioners cannot agree with owners of land, jury shall be appointed.

SECT. 6. That it shall and may be lawful for the City Councils to confer upon said Park Commission, and for the Commission to accept, the care and management from time to time of any other grounds now appropriated or hereafter to be appropriated for park purposes within the City of Philadelphia.

City Councils may confer care of other grounds upon Commissioners.

SECT. 7. No Park Commissioner, and no Solicitor acting for said Commission, and no person exercising any office, or holding any appointment under such Commission shall receive, either directly or indirectly, any compensation for any service rendered to any party having any claim of any kind, whether for land damages, or in any other manner arising against said Commission, or the city,

Commissioners, Solicitor and officers not to receive compensation from parties having claims.

<sup>6</sup>See ante, page 23, Sec. 2.

<sup>7</sup>See Act of March 26, 1867, Sec. 3, ante, page 4. Under authority conferred upon them by the above section, the Park Commissioners have varied the northwest boundary of the Park.

Under penalty of expulsion from office.

1st section of the Act of 14 April, 1868—defining boundaries—amended.

excepting only the proper salary or compensation, if any, attached to his office, and any offence against the provisions of this section shall be deemed a misdemeanor, and punishable by expulsion from office.

SECT. 8. The first section<sup>8</sup> of an act of Assembly, approved the fourteenth day of April, Anno Domini one thousand eight hundred and sixty-eight, entitled “A supplement to an act entitled ‘An act appropriating ground for public purposes in the City of Philadelphia,’ approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven,” shall be amended so that the same in describing the boundaries of Fairmount Park shall read as follows: “Beginning at a point in “the northeasterly line of property owned and occupied “by the Reading Railroad Company, near the City bridge “over the river Schuylkill at the Falls, where said northeasterly line would be intersected by the line dividing “the property of H. Duhring from that of F. Stoever and “T. Johnson, if the same were extended; from thence in a “southwesterly direction upon said dividing line and its “prolongation to the middle of the Ford road;” and from thence the said boundary line shall proceed as in said first section is described. And furthermore, it is hereby declared to be the true intent and meaning of the fifth section<sup>9</sup> of said act, that all the grounds pertaining to Fairmount Park, and mentioned and described in any of the sections of said act of Assembly, shall be subject to all the powers, control and authority which is by force of law conferred upon the Commissioners of Fairmount Park.

All grounds pertaining to Park declared to be subject to all powers conferred upon the Commissioners.

Park damages not to bear interest until payment is

SECT. 9. It is the true intent and meaning of the act entitled “An act appropriating ground for public purposes in the City of Philadelphia,” approved March

<sup>8</sup>Ante, page 8.

<sup>9</sup>Ante, page 12.

twenty-sixth, one thousand eight hundred and sixty-seven,<sup>10</sup> and of the supplement thereto, passed April fourteenth, one thousand eight hundred and sixty-eight,<sup>11</sup> and of the provisions of this further supplement, that no interest shall be allowed on damages for ground taken up to the time of their payment, or the issue of any warrant for their payment by the City of Philadelphia, excepting only such cases as are provided in the fourth section of this act.<sup>12</sup>

<sup>10</sup>Ante, page 3.

<sup>11</sup>Ante, page 8.

<sup>12</sup>Ante, page 24. See also, as to interest on Park damages before the passage of this act, ante, page 14, note 15.

*Act of January 27, 1870. P. L. 93.*

## A FURTHER SUPPLEMENT

To an act entitled "An act appropriating ground for public purposes in the City of Philadelphia," approved the twenty-sixth day of March, Anno Domini eighteen hundred and sixty-seven.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That it shall be lawful for the Court of Quarter Sessions of Philadelphia county to confirm the partial or special reports of Park juries, and to order payment by the City of Philadelphia of the damages awarded to one or more owners of land from time to time, although the jury shall not specify therein by whom the damages are to be paid, without prejudice to the right and power of the same or any other jury appointed by the court to subsequently make inquiry as to the advantages of opening said Park to properties adjoining, or in the vicinity of the same, and by a subsequent partial or special report to determine what amount, if any, of said damages shall be paid by the City of Philadelphia, and what amount, if any, shall be paid by the property owners benefited, as now provided by law.<sup>1</sup>

Court may confirm partial reports of Park juries, though no assessments for benefits have been made on adjoining property, without prejudice, etc.

SECT. 2. That the word "within" in section thirteen<sup>2</sup> of the act of the fourteenth of April, Anno Domini one

The word "within," in section 13, of

<sup>1</sup>See Act of April 14, 1868, Sec. 10, ante, page 14, and Act of June 15, 1871, post, page 33.

<sup>2</sup>Ante, page 15.

thousand eight hundred and sixty-eight, relating to Fairmount Park, next after the words "beyond or" be altered to "without."

the Act of 1868, altered to "without."

SECT. 3. That should any vacancy happen in any jury now appointed or hereafter to be appointed, by death or resignation, removal or otherwise, it shall be lawful for the court to fill such vacancy from time to time as it may happen without prejudice to the validity of the proceedings: *Provided*, That every claimant shall have the opportunity of being fully heard by the whole jury or a quorum thereof after any such new appointment.<sup>3</sup>

Vacancies in Park juries, how filled.

Every claimant shall be fully heard by whole jury or quorum thereof.

SECT. 4. That the Board of Park Commissioners shall make their annual report to the Councils of the City of Philadelphia during the month of January, and not to the Mayor of said city as now provided by law.<sup>4</sup>

Annual report of Commissioners.

SECT. 5. That the twenty-eighth section<sup>5</sup> of the act entitled "A supplement to an act entitled 'An act appropriating ground for public purposes in the City of Philadelphia,' approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven," approved the fourteenth day of April, Anno Domini eighteen hundred and sixty-eight, shall be and the same is hereby repealed; and there shall be appointed by the Commissioners of Fairmount Park, a Solicitor, whose duty it shall be under their direction to attend to the assessment of damages, and to such other business of a legal nature connected with the Park as the said Commissioners may require: he shall receive during the present year and hereafter, until otherwise ordered by Councils, the same compensation as is now provided for the Assistant Solicitor named in the said twenty-eighth section.

Twenty-eighth section of the Act of April 14th, 1868, repealed.

Commissioners to appoint Park Solicitor.

Duties.

Compensation.

<sup>3</sup>See Act of March 26, 1867, Sec. 3, and notes, ante, pages 4 and 5.

<sup>4</sup>See Act of April 14, 1867, Sec. 14, ante, page 16.

<sup>5</sup>See ante, page 21.

*Act of March 16, 1870. P. L. 451.*

## AN ACT

To secure to the citizens of the Commonwealth the free use and enjoyment of Fairmount Park in the City of Philadelphia, and to prevent the construction of any railroad therein.

Preamble.

WHEREAS, The City of Philadelphia under authority conferred by an act of Assembly approved March twenty-sixth, Anno Domini one thousand eight hundred and sixty-seven, and the several supplements thereto, has purchased a large body of land within the limits of said city, and laid out and improved the same as a public Park known as Fairmount Park, and has expended several millions of dollars in the purchase and improvement of the same:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That the City of Philadelphia is hereby required to maintain and keep open the said Fairmount Park for the free use and enjoyment of all the citizens of this State, subject to the rules adopted for the good order and government of the same,<sup>1</sup> and in consideration of the compliance of the said city with the requirements of this Act, the State of Pennsylvania hereby declares and agrees that no railroad shall ever hereafter be constructed within the

City required to maintain and keep open Fairmount Park.

In consideration whereof no railroads shall ever be built in the Park.

<sup>1</sup>See ante, page 18, Sec. 21.

limits of the said Fairmount Park:<sup>2</sup> *Provided*, that nothing in this act shall be construed to interfere with the rights already acquired by any railroad company whose tracks are now laid within the limits of said Fairmount Park.

Rights already acquired by railroad companies preserved.

<sup>2</sup>See Act of April 14, 1868, Sections 19 and 20, ante, page 17.

*Act of March 15, 1871. P. L. 363.*

## A FURTHER SUPPLEMENT

To an act appropriating ground for public purposes in the City of Philadelphia, approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That the said Park Commissioners shall have power to exclude from the Park manufactories therein, so as to leave the ownership in the owners thereof, with defined boundaries under agreements to be made between the said owners and the City of Philadelphia, to run with the title, in manner to protect the purity of the waters of the Schuylkill and the Wissahickon, and to preserve good order in the Park, and to prevent the sale of intoxicating liquors upon any part of the premises to be so left in private ownership; and such exemption from being taken for public use, may be for a term of years or in fee.

Com-  
mis-  
sioners may  
exclude from  
the Park  
manufac-  
tories  
therein  
under agree-  
ments with  
the owners.

To protect  
purity of  
water.

To preserve  
good order.

To prevent  
sale of in-  
toxicating  
liquors.

Exemption  
may be for  
term of  
years or in  
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agree with  
Ridge Ave-  
nue Turn-  
pike Com-  
pany for  
portion of  
said turn-  
pike.

Upon failure  
to agree,  
jury may be  
appointed.

Proceedings,  
etc.

SECT. 2. That it shall be lawful for the Fairmount Park Commissioners to agree with the Ridge Avenue Turnpike Company for the taking of said Ridge avenue, from Dauphin street northwestward to the Wissahickon, and if they cannot agree, to petition for a jury in manner authorized by the acts relating to said Park; and such jury shall proceed, and the court have all the power in said acts contained, for the ascertainment and payment of the damages for freeing said avenue from tolls.<sup>1</sup>

<sup>1</sup>See Act of March 26, 1867, Sec. 3, ante, page 4.

*Act of June 15, 1871. P. L. 394.*

# AN ACT

Relating to the assessment of damages for the appropriation of land for public use.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That in all cases of the appropriation of land for public use, other than for roads, streets or highways, it shall not be lawful to assess, apportion or charge the whole or any portion of the damage done to or value of the land so appropriated, to, among or against the other property adjoining or in the vicinity of the land so appropriated, nor the owners thereof; and all acts, or parts of acts, inconsistent herewith, are hereby repealed.<sup>1</sup>

No assessments for benefits shall be made upon property adjoining or in the vicinity of land taken for public use, except in the case of roads, etc.

<sup>1</sup>See Act of March 26, 1867, Sec. 3, ante, page 4. This Act does not apply to cases where part of the same tract of land is taken and part is not. In that case the jury is bound, in ascertaining the damages, to take into consideration the advantages to that portion of the tract which is left: 29 Leg. Int. 220.

*Act of June 8, 1895. P. L. 188.*

## AN ACT

Providing for the manner of ascertaining, determining, awarding and paying compensation and damages in all cases where municipalities of this Commonwealth may hereafter be authorized by law to take, use and appropriate private property for the purpose of making, enlarging and maintaining public parks within the corporate limits of such municipality.<sup>1</sup>

How municipality may acquire private property.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That in all cases where any municipality of this Commonwealth shall hereafter be authorized and empowered by law to acquire, enter upon, take, use and appropriate private property for the purposes of making, enlarging and maintaining public parks within the corporate limits of such municipality, whenever the Councils thereof shall by ordinance or joint resolution determine thereon, the compensation and damages arising from such taking, using and appropriating of private property for the purposes aforesaid, shall be considered, ascertained, determined, awarded and paid in the manner hereinafter provided.

Compensation and damages.

SECT. 2. If the compensation and damages arising from such taking, using and appropriating of private property for the purposes aforesaid, cannot be agreed upon by the owners thereof and such municipalities, it shall be lawful for such municipalities to tender its bond as

When parties cannot agree. Municipality may tender bond.

<sup>1</sup>See Act of June 26, 1895, as amended, post, page 38.

security to the party claiming or entitled to any damages, or to the attorney or agent of any absent person, or to the agent or other officer of a corporation, or to the guardian or committee of any person under legal incapacity, the condition of which shall be that the said municipality shall pay or cause to be paid such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon or assessed in the manner provided in this Act. In case the party or parties claiming damages refuse or do not accept the security so tendered, the said municipality shall then give the party, his or their agent, attorney, guardian or committee, at least ten days' written notice of the time when the same will be presented in any court of common pleas of the county in which the land so to be acquired, taken, used or appropriated is situate, for approval; and thereafter, the said municipality may present its bond to said court of common pleas, and when approved, the said bond shall be filed in said court for the benefit of those interested, and recovery may be had thereon for the amount of damages ascertained or finally determined, if the same be not paid or cannot be made by execution on the judgment in the issue formed to try the question, and upon the approval of said security, said municipality may enter into possession, take, hold, use and enjoy said land for the purposes aforesaid forever.

Condition.

If owners refuse municipality may petition court.

And file bond.

Recovery of damages.

SECT. 3. In case the compensation for damages accruing from such appropriation has not been agreed upon by the parties in interest, any court of common pleas of the proper county as aforesaid, or any law judge thereof in vacation, on application thereto by said municipality, or any person interested in such land and property, shall appoint three discreet and disinterested freeholders as viewers, and appoint a time, not less than ten nor more

When compensation for damages is not agreed upon.

Court shall appoint three viewers.

Notice of  
meeting.

Viewers shall  
be sworn.

Duties.

Shall give  
ten days' no-  
tice of meet-  
ing.

And make  
report to  
court.

Exceptions  
to report.

than twenty days thereafter, when said viewers shall meet upon the property and view the same and the premises affected thereby. The said viewers shall give at least five days' personal notice of the time of their first meeting upon the owners, agents, attorneys or representatives thereof, if the same reside within the county in which such municipality is located, otherwise by handbills posted upon the premises or by such other notice as the court shall direct. The said viewers, having been duly sworn or affirmed faithfully, justly and impartially to decide and true report to make concerning all matters and things, to be submitted to them in relation to which they are authorized to inquire under the provisions of this Act, and having viewed the premises, or examined the property, shall hear all parties interested and their witnesses, and having due regard to the advantages and disadvantages, shall estimate and determine the damages for the property taken, used or appropriated, and to whom the same are payable; they shall give at least ten days' notice thereof in the manner herein provided, to all parties interested of the time and place when said viewers will meet and exhibit said report and hear any exceptions thereto. After making whatever changes are deemed necessary and proper, the said viewers shall make report to the court, showing the damages, if any, allowed, and file therewith a plan showing the properties acquired, taken, used and appropriated, and the names of the persons to whom such damages are payable.

SECT. 4. Upon the report of said viewers, or any two of them, being filed in said court, any party may within thirty days thereafter file exceptions to the same; and the court shall have power to confirm said report, or to modify, change or otherwise correct the same, or refer the same back to the same or new viewers with like power as to their report. Or within thirty days from the filing

of any report in court, any party whose property is so acquired, taken, used or appropriated may appeal and demand a trial by jury, and any party interested therein may, within thirty days after final decree, have an appeal to the Supreme Court. If no exceptions are filed or no demand made for trial by jury within the said thirty days after the filing of said report, the same shall become absolute. The said court of common pleas shall have power to order what notices shall be given, in connection with any part of said proceedings, and may make all such orders as it may deem requisite.

May appeal and demand jury trial, etc.

Power of the court.

SECT. 5. The viewers provided for in this Act may be appointed before, or at any time after the entry, taking or appropriation of any property to be used for the purpose aforesaid. They shall have power to administer oaths and adjourn their hearings from day to day as they may find necessary.

When viewers may be appointed, etc.

SECT. 6. The costs of the viewers and all court costs incurred in the said proceedings, including advertising and printing and posting notices, shall be defrayed by the said municipality and each of the said viewers shall be entitled as compensation to a sum not exceeding five dollars per day, for every day necessarily employed in the performance of the duties herein prescribed.

Costs shall be paid by municipality.

Compensation of viewers.

SECT. 7. All damages when ascertained and determined shall be assessed against and paid by the municipality so taking, using and appropriating the property as aforesaid.

Payment of damages.

*Act of June 26, 1895. P. L. 349.*

As amended by Act of July 15, 1897, P. L. 273, and Act of May 6, 1909, P. L. 459.

## AN ACT

Authorizing the cities of this Commonwealth to purchase, acquire, take, use and appropriate private property for public park purposes.

Acquiring of private property and certain poor-house property for park purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That it shall be lawful for and the right is hereby conferred upon the cities of this Commonwealth to purchase, acquire, enter upon, take, use and appropriate private property for the purposes of making, enlarging, extending and maintaining public parks, within or without the corporate limits of such cities, and to enter upon, take, use and appropriate any poorhouse properties held for the accommodation of the poor of any districts, wards or townships, within or without the corporate limits of such cities, for the purposes of making, enlarging, extending, and maintaining such public parks, whenever the Councils thereof shall by ordinance or joint resolution determine thereon: *Provided,* That where said private property is outside of the city, it may be annexed thereto by ordinance of such city: *And provided,* That where any poorhouse properties shall be so taken, and such cities shall have made adequate provision for thereafter accommodating and supporting the poor of the dis-

tricts, wards or townships within such cities, wherein such poorhouses are located, nominal damages only shall be awarded for such taking, and the land shall be held on condition that such cities shall continue to make such adequate provisions for the poor of such districts, wards or townships.

SECT. 2. Whenever any of said cities in the exercise of the right so conferred has heretofore acquired, taken, used or appropriated, or shall hereafter acquire, take, use or appropriate private property for public park purposes, and said city cannot agree with the owner or owners, lessee or lessees of such private property upon the compensation for the property appropriated and the damages done, or when by reason of the absence or legal incapacity of any such owner or owners, lessee or lessees, no such compensation can be agreed upon, the court of common pleas of the proper county, or any judge thereof in vacation, on application thereto by petition by said city, or such owner, lessee or any person interested, shall appoint three discreet, disinterested freeholders of said city as viewers to view and ascertain the damages done by reason of such taking, use, appropriation, occupancy or injury, and shall appoint a time, not less than twenty nor more than thirty days thereafter, for said viewers to meet at or upon the premises where the damages are alleged to be sustained or the property taken, of which time and place ten days' notice shall be given by the petitioner to said viewers and all parties interested by personal service when such service can be obtained, otherwise by publication in one or more newspapers and by handbills posted on the premises, or in such other manner that said court shall direct. And the said viewers or any two of them having been duly sworn or affirmed, faithfully, justly and impartially to decide and a true report make concerning all matters and

When cities have taken property for park purposes.

Notice shall be given.

Viewers shall be sworn.

Shall estimate and determine value of land, etc.

Shall also estimate damages, if any.

If report awarding damages is confirmed, judgment shall be entered.

How collected.

Parties may appeal to court.

Affidavit must be made.

May put cause at issue and have it tried.

Either party may appeal to Superior or Supreme Court.

Power of the Court of Common Pleas.

things to be submitted to them, and in relation to which they are authorized to inquire into, in pursuance of the provision of this Act, and having viewed the premises or examined the property, shall estimate and determine the quantity, quality and value of the land or property so entered upon, taken, used, appropriated or injured as the case may be, and having a due regard to and making just allowance for the advantages which may have resulted or which may seem likely to result to the owner or owners of said land or property in consequence of the making, enlarging or extending of such public park, and after having made a fair and just comparison of said advantages and disadvantages, they shall estimate and determine whether any, and if any, what amount of damages has been or may be sustained, and to whom payable, and make report thereof to said court. If any damages be awarded and the report of said viewers be confirmed by said court, judgment shall be entered thereon, and if the amount thereof be not paid within thirty days after the entry of such judgment, said judgment shall be collected by due legal process as other judgments are collected from said city. Upon the report of said viewers, or any two of them, any party who may, within twenty days thereafter, file an appeal from said report to said court in writing, and accompanied with an affidavit that the same is not taken for the purpose of delay but because the affiant firmly believes that injustice has been done, and after such appeal, either party may put the cause at issue in the form directed by said court, and the same shall be tried by said court and a jury, and after final judgment, either party may appeal to the Superior or Supreme Court under the provisions and in the manner prescribed in other cases. The said court of common pleas shall have power to order what notices shall be given in connection with any of the proceedings, and may make all

such orders as it may deem requisitè. The costs incurred in the proceeding aforesaid shall be defrayed by said city, and each of the viewers shall be entitled to receive a sum, not exceeding five dollars per day, or such compensation as shall be decided upon by the proper court, not exceeding five dollars per day, for every day necessarily employed in the performance of their duties.

Payment of  
costs.

*Act of February 28, 1901. P. L. 15.*

### A FURTHER SUPPLEMENT

To an "Act to provide for the better government of cities of the first-class in this Commonwealth," approved June first, one thousand eight hundred and eighty-five.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That any board in any city of the first-class vested with the power to regulate grounds for the health and enjoyment of the people under any special Act of Assembly is hereby authorized to set apart or aside any roadway or drive therein for the use of horses and vehicles at such rate of speed as may be prescribed by said board, and no limit of speed prescribed by any special act shall thereafter apply to such roadway or drive so established.

Speedway  
authorized.

*Act of April 24, 1903. P. L. 294.*

## AN ACT

Authorizing commissioners of public parks within cities of the first class of this Commonwealth, to purchase, acquire, enter upon, take, use and appropriate farmlands and woodlands adjoining any public park within said cities, for park purposes, wherever in their opinion such lands shall be necessary for the improvement of said parks, and providing that the total acreage of land so taken shall not exceed one thousand acres.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That it shall be lawful for, and the right is hereby conferred upon, commissioners of public parks within cities of the first class of this Commonwealth, to purchase, acquire, enter upon, take, use and appropriate, for public park purposes, farmlands and woodlands adjoining and bounding land now used for park purposes within the corporate limits of said cities of the first class, in which the park or parks are located, where in the opinion of said commissioners the said lands shall be necessary for the improvement of the said parks: *Provided, however,* That the total acreage of all lands so taken in pursuance of this Act shall not exceed one thousand acres.

SECT. 2. In exercising the power aforesaid, all proceedings for ascertaining damages, and assessing the benefits incident thereto, shall be in accordance with the law authorizing cities of this Commonwealth to acquire, by purchase or otherwise, private property for public park purposes.<sup>1</sup>

<sup>1</sup>See Act of June 26, 1895, as amended, ante, page 38.

*Act of May 25, 1907. P. L. 249.*

## AN ACT

Creating an Art Jury for cities of the first class, and prescribing its powers and duties.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That in every city of the first class in this Commonwealth there shall be an Art Jury, composed of the Mayor of the city, ex-officio, and eight other members to be appointed by him as hereinafter provided. In all matters within the jurisdiction of the jury, pertaining to work under the special charge of a bureau in any department of the city, the head of such bureau shall, also, for the time being, act as a member of the jury, ex-officio.

SECT. 2. The members of the jury, to be appointed by the mayor, shall consist of a painter, a sculptor, an architect, a member of a commission having control of a public park in said city, not holding any other office under the city government, and four other persons not engaged in the practice of the profession of painting, sculpture or architecture, but, at the date of their appointment, members of the governing body or teaching force of a corporation or corporations organized under the laws of this Commonwealth and conducting a school of art or architecture in said city. Those first selected shall be appointed by the mayor in groups of two, for terms of one, two, three and four years, respectively, from the first

Monday of April, and thereafter the successor of each of them shall be appointed for a term of four years from the date of expiration of his predecessor's term, except in the case of an appointment to fill a vacancy occurring during a term, which shall be for only the unexpired portion of the term. All appointments under this act shall be exempt from the provisions of the act to regulate and improve the civil service of the cities of the first class, approved March fifth, one thousand nine hundred and six, but shall be subject to confirmation by select councils of the said cities.

SECT. 3. The members of the jury shall serve without compensation; and from their own number shall elect a president and secretary, to serve for one year, and until their successors are elected. The jury shall have power to adopt its own rules of procedure and to prescribe regulations for the submission to it of all matters within its jurisdiction. Five members shall constitute a quorum. The councils of said city shall, by ordinance, provide for the necessary expenses of the jury, including the salaries of such clerk, or clerks, as may be required, and appointed by the mayor of said cities.

SECT. 4. Hereafter no work of art shall become the property of a city of the first class, by purchase, gift, or otherwise, unless such work of art, or design for the same, and the proposed location of such work of art, shall first have been submitted to and approved by the art jury of said city; nor shall any work of art, until so approved, be erected or placed in or upon or allowed to extend over, any building, highway, stream, lake, square, park or other public place belonging to or under the control of said city. The jury may, when it deems proper, also require a complete model of the proposed work of art to be submitted to it before taking final action thereon. The term "work

of art," as used in this act, shall include all paintings, mural decorations, inscriptions, statues, reliefs, or other sculptures, monuments, fountains, arches, or other structures, intended for ornament or commemoration. No existing work of art, in the possession of the city, shall be removed, relocated, or altered in any way without the approval of the jury.

SECT. 5. The jury shall make to the mayor, annually, on or before the first Monday of February, a report of its proceedings during the preceding year, and shall also, from time to time, make such recommendations for improvements to the city, as it may deem advisable.

SECT. 6. This act shall not limit, or affect in any way, the authority conferred by law upon any commission to lay out, improve, or maintain any public park, in any city of the first class, now under the control of such commission; nor shall it restrict in any way the exercise of full discretion by such commission in the execution of any trust created by deed or will.

*Act of May 31, 1907. P. L. 349.*

## AN ACT

To provide for the planting and care of shade-trees, on highways of townships of the first class, boroughs, and cities of the Commonwealth of Pennsylvania, and providing for the cost thereof.

SECTION. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That in townships of the first class, boroughs and cities of the Commonwealth of Pennsylvania there may be appointed, in the manner hereinafter provided, a Commission of three freeholders, to be known and designated as the Shade-tree Commission of the said township, borough, or city, who shall serve without compensation, and who shall have exclusive and absolute custody and control of and power to plant, set out, remove, maintain, protect and care for, shade-trees, on any of the public highways of the said townships, boroughs, and cities, the cost thereof to be provided for in the manner hereinafter stated: *Provided,* That in townships, boroughs, or cities, in which a Commission for the care of public parks shall have been created, said Commission shall, upon the acceptance of this act, as provided in section two, be charged with the duties of the Commission as above provided, and shall, for that purpose, be possessed of all the powers herein mentioned and granted.

SECT. 2. The commissioners of any township of the first class, or the councils of any borough or city, in the

State of Pennsylvania, may, by majority vote in the case of the commissioners, or by joint resolution in the case of the councils, accept the provisions of this act;<sup>1</sup> and, when such majority vote or joint resolution shall have been duly passed and approved, and such Shade-tree Commissioners appointed, or, in their stead, the duties and powers herein provided have been devolved upon an existing park commission, then, from that time and in that event, this act and all its provisions shall be in full force and application in such township of the first class, borough, or city, so accepting, and such commissioners shall be appointed, for terms of three, four and five years, respectively, and on the expiration of any term the new appointment shall be for five years, and any vacancies shall be filled for the unexpired term only; and in townships of the first class the said appointment shall be made by the commissioners thereof; and in boroughs by the chief burgess, and in cities by the mayor thereof: *Provided*, That in cities where a Commission exists for the care of public parks, the term and appointment of such Commission shall not be changed by this act, but shall be and remain as provided by the act of Assembly, or by the ordinance of Councils creating such Commission for the care and maintenance of public parks. And such Shade-tree Commission shall, twice in every year, report in full its transactions and expenditures for the municipal fiscal year then last ended, to the authority under and by which it was appointed: *Provided*, That an existing park commission, acting under this enactment, may embody its report in its regular report to the councils, as by law or ordinance provided.

SECT. 3. That, when such shade-tree commissioners or park commissioners, so acting, shall propose the setting out or planting or removing of any shade-trees, or the ma-

<sup>1</sup>The provisions of the Act were accepted by the Councils of the City of Philadelphia on July 13, 1911, post, page 84.

terial changing of the same in any highway, they shall give public notice of the time and place appointed for the meeting at which such contemplated work is to be considered, specifying in detail the highways, or portion thereof, upon which trees are proposed to be planted, removed or changed, in one or more—not exceeding two in all—of the newspapers published in said township, borough, or city, once each week for at least two weeks, prior to the date of said meeting.

SECT. 4. The cost of planting, transplanting, or removing any trees in any highway, and of suitable guards, curbing, or grating for the protection thereof when necessary, and of the proper replacing of any pavement or sidewalk necessarily disturbed in the doing of such work, shall be borne by the owner of the real estate in front of which such trees are planted, set out, or removed; and the cost thereof as to each tract of real estate shall be certified by the commissioners to the township commissioners, or to the presidents of the councils in boroughs and cities, and also to the person having charge of the collection of taxes in such township, borough, or city; and upon the filing of said certificates, the amount of the cost of such improvement, of which notice shall also be given to each property owner involved, accompanied with a copy of the aforesaid certificate, together with a notice of the time and place of payment, shall be and become a lien upon said real estate, in front of which said trees have been planted, set out, or removed; such lien to be collectible, if not paid in accordance with notice as herein provided, in the same manner as other liens for taxes are now collectible against the property involved.

SECT. 5. The cost and expense of caring for said trees, after having been planted or set out, and the expense of publishing the notices provided for in section three, shall

be borne and paid for by a general tax, to be levied annually in the manner that taxes for township, borough, or city purposes are now levied in such townships of the first class, boroughs or cities; such tax not to exceed the sum of one-tenth of one mill on the dollar on the assessed valuation of the property in such townships of the first class, boroughs, or cities; and the needed amount shall each year, in due time, be certified by the shade-tree commissioners to the proper authorities charged with the assessment of taxes in said townships, boroughs, or cities, to be assessed and paid, as other taxes are assessed and paid, and to be drawn against as required by said commissioners, in the same manner as moneys appropriated for township, borough, or city purposes, are now drawn against in said townships, boroughs, or cities: *Provided*, That the commissioners of any township of the first class, and the councils of any borough or city, accepting the provisions of this act, may provide for the expense of the maintenance of trees on highways, in accordance with the provisions of this section, by actual appropriation, equal to the amount certified to be required by the said Commission, in lieu of the specific assessment above authorized.

SECT. 6. The Commission, under which the provisions of this act shall be carried out, in any township of the first class, borough, or city, shall have power to employ and pay such superintendents, engineers, foresters, tree-wardens, or other assistants, as the proper performance of the duties devolving upon it shall require; and to make, publish and enforce regulations for the care of, and to prevent injury to, the trees on the highways of any township, borough, or city accepting the provisions of this act; and to assess suitable fines and penalties for violations of this act: *Provided*, Such regulations shall have been published at least twice in one or more—not exceeding two—newspapers of the township, borough, or

city, involved, and having been submitted to and being approved by the commissioners of the township of the first class, or the councils of the borough or city affected; and such fines and penalties, so assessed for violations of this act, shall become liens upon the real property of the offender, and be collectible by the constituted authorities as liens for taxes upon real property are now collected.

SECT. 7. All the moneys due and collected from fines or penalties or assessments, in consequence of the acts of said Shade-tree Commission in enforcing this act, shall be paid to the treasurers of the townships, boroughs, and cities accepting its provisions, and shall be placed to the credit of said Commission, subject to be drawn upon by the said Commission for the purposes of this act.

SECT. 8. All acts and parts of acts inconsistent with this act are hereby repealed.

SECT. 9. This act shall take effect immediately; but its provisions shall not be and become binding upon any township, borough, or city until it has been duly accepted, as provided in section two.

*Act of June 8, 1907. P. L. 466.*

## AN ACT

Authorizing cities of this Commonwealth to purchase, acquire, take, use and appropriate private property, for the purposes of making, enlarging, extending and maintaining public parks, parkways and playgrounds; authorizing the said cities to purchase, acquire, take, use and appropriate neighboring private property, within two hundred feet of the boundary lines of such public parks, parkways and playgrounds, in order to protect the same by resale, with restrictions; authorizing the resale of such neighboring property, with such restrictions in the deeds of resale in regard to the use thereof as will protect such public park, parkways and playgrounds; and providing for the manner of ascertaining, determining, awarding and paying compensation and damages in all cases where property is taken, used and appropriated for the said purposes.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That it shall be lawful for, and the right is hereby conferred upon, the cities of this Commonwealth to purchase, acquire, enter upon, take, use and appropriate private property, for the purpose of making, enlarging, extending and maintaining public parks, parkways and playgrounds within the corporate limits of such cities, whenever the Councils thereof shall, by ordinance or joint resolution, determine thereon: *Provided, That*

Cities.

Acquirement  
of private  
property.

Proviso.

where such private property is outside of the city, it may be annexed thereto by ordinance of said city: *And provided*, That where any poorhouse properties are so taken, and such cities shall have made adequate provisions for thereafter accommodating and supporting the poor of the districts, wards, and townships within such cities, where-in such poorhouses are located, nominal damages only shall be allowed for such taking, and the land shall be held on condition that such city shall continue to make adequate provisions for the poor of such districts, wards, or townships.

Annexation.  
Proviso.  
Poorhouse  
property.

SECT. 2. It shall be lawful for, and the right is hereby conferred upon, cities of this Commonwealth to purchase, acquire, enter upon, take, use, and appropriate neighboring private property, within two hundred feet of the boundary lines of such property so taken, used, and appropriated for public parks, parkways and playgrounds, in order to protect the same by the resale of such neighboring property with restrictions, whenever the Councils thereof shall, by ordinance or joint resolution, determine thereon: *Provided*, That in the said ordinance or joint resolution, the Councils thereof shall declare that the control of such neighboring property, within two hundred feet of the boundary lines of such public parks, parkways or playgrounds, is reasonably necessary, in order to protect such public parks, parkways, or playgrounds, their environs, the preservation of the view, appearance, light, air, health, or usefulness thereof.

Neighboring  
private prop-  
erty.  
Proviso.  
Ordinance or  
resolution.

SECT. 3. That it shall be lawful for, and the right is hereby conferred upon, the cities of this Commonwealth to resell such neighboring property, with such restrictions in the deeds of resale in regard to the use thereof as will fully insure the protection of such public parks, parkways and playgrounds, their environs, the preservation of the

Right of re-  
sale.

view, appearance, light, air, health and usefulness thereof, whenever the Councils thereof shall, by ordinance or joint resolution, determine thereon.

Property declared appropriated for public use.

SECT. 4. The taking, using and appropriating, by the right of eminent domain as herein provided, of private property for the purpose of making, enlarging, extending, and maintaining public parks, parkways and playgrounds, and of neighboring property, within two hundred feet of the boundary lines of such public parks, parkways and playgrounds, in order to protect such public parks, parkways, and playgrounds, their environs, the preservation of the view, appearance, light, air, health and usefulness thereof, by reselling such neighboring property, with such restrictions in the deeds of resale as will protect said property, so taken for the aforesaid purpose, is hereby declared to be taking, using, and appropriating of such private property for public use: *Provided, however,* That the proceeds arising from the resale of any such property, so taken, shall be deposited in the treasury of said cities, and be subject to general appropriation by the Councils of said city.

Proviso.

When compensation for damages cannot be agreed upon.

SECT. 5. In all cases wherein cities of this Commonwealth shall hereafter take, use, and appropriate private property, for the aforesaid purposes, by ordinance or joint resolution, if the compensation and damages arising therefrom cannot be agreed upon by the owners thereof and such cities, such compensation and damages shall be considered, ascertained, determined, awarded, and paid in the manner provided in an act, entitled "An Act providing for the manner of ascertaining, determining, awarding, and paying compensation and damages in all cases where municipalities of this Commonwealth may hereafter be authorized by law to take, use and appropriate private property for the purpose of making, enlarg-

ing and maintaining public parks, within the corporate limits of such municipality," approved the eighth day of June, Anno Domini one thousand eight hundred and ninety-five.<sup>1</sup>

SECT. 6. All acts or parts of acts inconsistent 'herewith are hereby repealed.

<sup>1</sup>Ante, page 34.

*Act of June 3, 1911. P. L. 652.*

## AN ACT

Repealing rule thirteen, contained in section twenty-one of an act approved the fourteenth day of April, Anno Domini one thousand eight hundred and sixty-eight, entitled "A supplement to an act entitled 'An Act appropriating ground for public purposes in the City of Philadelphia,' approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That so much of section twenty-one of the act approved the fourteenth day of April, Anno Domini one thousand eight hundred and sixty-eight, entitled "A supplement to an act entitled 'An act appropriating ground for public purposes, in the City of Philadelphia,' approved the twenty-sixth day of March, Anno Domini one thousand eight hundred and sixty-seven," which reads as follows: "Thirteen. No person shall go in to bathe within the Park,"<sup>11</sup> is hereby repealed.

<sup>1</sup>Ante, page 19.

## ORDINANCES

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*Ordinance of September 28, 1855. Ordinances 1855,  
page 207.*

### AN ORDINANCE

Dedicating Lemon Hill Estate to public use as a Park.

WHEREAS, By the thirty-ninth section of the Act of Assembly consolidating the City of Philadelphia,<sup>1</sup> it is made the duty of City Councils to lay out and maintain an adequate number of squares or areas of ground within the limits of the said City, convenient of access to all its inhabitants, as open and public squares for the health and enjoyment of the people forever;

AND WHEREAS, The property now known as the Lemon Hill Estate, owned by the City, and lying within its limits, is convenient of access, and adapted by its many natural advantages to the ends contemplated by the provisions of the said Act relative thereto; therefore,

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the area of ground now known as the Lemon Hill Estate, situate on the east bank of the Schuylkill, northward of Fairmount, as the same is, by a certain indenture dated the twenty-fourth day of July, one thousand eight hundred and fifty-four, recorded in the office for recording deeds, etc., in Deed Book R. L. L. No. 20, page 663, conveyed to "The Mayor, Aldermen and Citizens of Philadelphia," therein fully described by metes and bounds, shall be, and the same is hereby devoted and dedicated to public use as and for a Park; and the said area of ground shall be called and known by the name of "Fairmount Park."

<sup>1</sup>Ante, page 1.

*Resolution of April 28, 1857. Ordinances 1857, page 175.*

## RESOLUTION

*Resolved, By the Select and Common Councils of the City of Philadelphia:*

1. That the City of Philadelphia accept the generous gift of some of her citizens, of Sedgley Park Estate, situate upon the banks of the Schuylkill, north of Fairmount Park, and containing within its limits thirty-three acres of ground.

2. That these premises be, and they are hereby dedicated to the public use and enjoyment forever, as a park, in connection with and as a part of Fairmount Park.

3. That the names of the donors be recorded in the Journals of Councils, and that a copy of the Journal, when printed, be sent to each of the donors.

*Ordinance of July 11, 1860. Ordinances 1860, page 288.*

## AN ORDINANCE

Selecting an area of ground to be laid out and maintained forever as an open public place for the health and enjoyment of the people, and also to preserve the purity of the Schuylkill water at Fairmount.

WHEREAS, The small strip of ground lying between the present Fairmount Park and Fairmount Square, has been included in the design adopted for the improvement of the Park, thus making (if owned by the City) a continuous water front from the Wire Bridge to the north end of the Park, above the Spring Garden Water Works;

AND WHEREAS, Should this strip not be obtained by the City, it may, and probably will, become a nuisance, by the erection of factories thereon, which will not only fill the water with impurities, and that immediately above the forebay, but also destroy the connection between Fairmount and the Park, and make the access much less convenient and imposing; now, therefore,

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by the fourth section of an Act of the General Assembly approved May 13, 1857, they do select and appropriate the area of ground, which, according to an accurate survey thereof, is bounded as follows: All that certain tract or piece of land, situate on the northwesterly corner of Coates street and Landing avenue, in the Fifteenth Ward of the City

of Philadelphia; containing in front or breadth on the said Landing avenue six hundred and thirty feet, more or less, to the line of property of the City of Philadelphia, and extending in length or depth southwesterly on the northwesterly line thereof at right angles with said Landing avenue about three hundred and two feet, more or less, into the river Schuylkill, and on the southeasterly line thereof along the northwesterly side of Coates street about two hundred feet, more or less, into the river Schuylkill. To be laid out and maintained forever as an open public place for the health and enjoyment of the people.

SECT. 2. That the City Solicitor be, and is hereby empowered to negotiate, on behalf of the City of Philadelphia, with John M. Ogden, H. C. Townsend and Eli K. Price, owner or owners of said ground by the first section hereof selected and appropriated, relative to the price thereof, and to report to Councils, as soon as may be, upon what terms the same may be acquired by the City of Philadelphia.

*Ordinance of June 28, 1864. Ordinances 1864, page 273.*

## AN ORDINANCE

Appropriating ground for public purposes.

WHEREAS, The drainage of the area of ground hereinafter described by the reports of the Chief Engineer of the Water Department fills the water with impurities, and that immediately above the forebay;

AND WHEREAS, The locality of said ground is eminently adapted for an addition to Fairmount Park; now, therefore,

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by the fourth section of an Act of the General Assembly approved May 13, 1857, they do select and appropriate the area of ground, which, according to an accurate survey thereof, is bounded as follows: All that certain piece of ground in the Fifteenth Ward, beginning at the northwesterly corner of Coates street and Pennsylvania avenue; thence extending westerly along the northwardly line of said Coates street to the southeasterly side of Landing avenue; thence extending northwesterly along the said southeasterly side of Landing avenue to the line of property belonging to the City of Philadelphia; thence extending by the said line northeasterly to the northwesterly line of Pennsylvania avenue; thence extending along the said line of Pennsylvania avenue to the place of beginning; to be laid out and maintained forever as an open public place for the health and enjoyment of the people.

SECT. 2. That it shall be the duty of the Chief Engineer and Surveyor to furnish to the City Solicitor, as soon as may be, an accurate plan of the ground selected in the first section, together with the metes and bounds of each property herein contained, with the name of the owner thereof.

SECT. 3. That the City Solicitor be, and he is hereby directed to file in the Court of Quarter Sessions in and for the City and County of Philadelphia, on behalf of said City, a petition, setting forth by proper metes and bounds the area of ground by the first section hereof selected and appropriated, praying said court to appoint a jury to assess the damages, as now provided by law.

*Ordinance of February 15, 1867. Ordinances 1867,  
page 32.*

## AN ORDINANCE

To authorize the purchase of a certain tract of land in the Twenty-fourth Ward, known as "The Lansdowne Estate."

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the City Solicitor is hereby authorized and directed to examine the title to a certain tract of land situate on the west side of the river Schuylkill, between the Girard avenue bridge and the Columbia railroad bridge, in the Twenty-fourth Ward of the City of Philadelphia; containing about one hundred and forty acres, more or less, known as "The Lansdowne Estate," and if he approve of the same, that he cause to be prepared a conveyance of the said tract of land to the City of Philadelphia in fee, the consideration therefor to be at the rate of six hundred dollars per acre.

SECT. 2. That the sum of ninety thousand dollars be, and the same is hereby appropriated to the Mayor of the City of Philadelphia, or so much thereof as may be necessary for the purpose of paying the consideration money for the said tract of land and expenses of the transfer, the said amount to be reimbursed out of a loan to be hereafter created.

SECT. 3. The warrants for the same shall be drawn by the Mayor in conformity with existing ordinances.

*Ordinance of June 28, 1867. Ordinances 1867, page 220.*

## AN ORDINANCE

Appropriating certain ground on the east side of the river Schuylkill for the extension of Fairmount Park.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That in pursuance of the sixth section of an Act appropriating ground for public purposes in the City of Philadelphia, approved the twenty-sixth day of March, A. D. 1867, the Commissioners of Fairmount Park are hereby empowered and authorized, for the purpose of extending said Park, to take possession of all that piece of land, with the buildings thereon erected, situate on the east side of the river Schuylkill, and lying between the Spring Garden Water Works and the Columbia bridge, and between the Reading Railroad and the river Schuylkill, in the said City, and that the said land shall be laid out and maintained forever as an extension of Fairmount Park, for the health and enjoyment of the people of said City, and the preservation of the purity of the water supply of the City of Philadelphia.

*Ordinance of March 4, 1868, Ordinances 1868, page 88.*

## AN ORDINANCE

Appropriating ground for public purposes, pursuant to the Acts of Assembly empowering the City of Philadelphia so to do; also defining the limits, and providing for the improvement of Fairmount Park.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain,* That Fairmount Park shall consist of the area of water and of ground which is embraced within the following limits, to wit, beginning at a point in the northeasterly line of property owned and occupied by the Reading Railroad Company, near the city bridge over the river Schuylkill at the Falls, where said northeasterly line is intersected by the line dividing property of H. Duhring from that of F. Stoever and T. Johnson, extending from thence in a southwesterly direction upon said dividing line and its prolongation to the middle of the Ford road; from thence by a line passing through the southeast corner of Forty-ninth and Lebanon streets to George's Run; thence along the several courses of said run to a point fourteen hundred and eighty-seven and a half feet from the middle of the Pennsylvania railroad, measured at right angles thereto; thence by a straight line through the northeast corner of Forty-third and Hancock streets to the northerly side of Girard avenue near Fortieth street; thence by the said northerly line of Girard avenue to the easterly side of the Junction railroad as now used; thence by the said easterly side of the Junction railroad and the Pennsylvania railroad to the north side of Haverford

Boundaries  
of Fair-  
mount Park  
defined.

street; thence by the northerly side of said Haverford street to the westerly side of Bridgewater street; thence by the said Bridgewater street to the north line of Bridge street; thence by said Bridge street to the west abutment of the Suspension bridge; thence by the northwesterly side of the Suspension bridge and Callowhill street to the angle in said street, on the southwesterly side of Fairmount Basin; thence by the northerly side of Callowhill and Biddle streets to the westerly side of Twenty-fifth street; thence by the said Twenty-fifth street to the southwesterly side of Pennsylvania avenue; thence by the said southwesterly side of Pennsylvania avenue to the west side of Thirty-third street; thence along the westerly line of Thirty-third street to the southwesterly line of Ridge avenue; thence along said Ridge avenue to the southwesterly line of South Laurel Hill Cemetery (north of Huntingdon street); thence by and along said property line to such a distance from the shore line of the river Schuylkill as will permit the location of a carriage road one hundred feet wide upon its margin; thence along the said river shore, and its several courses, as may be most practicable, at the same distance as above specified (provided said distance shall not exceed one hundred and fifty feet), to a point opposite the intersection of the Ridge turnpike and School lane; thence northwardly to a point on the southwesterly side of said turnpike road, opposite to the southeasterly side of said School lane; thence by the southwesterly side of the Ridge turnpike road and its several courses to the southeasterly side of the Wissahickon creek; thence by the several courses of the southeasterly side of Wissahickon creek to the Schuylkill river; thence across the water course of said river to the northeasterly line of the Reading Railroad Company's property, as now occupied and in use, at the city boundary line; thence along said northeasterly line, as now occupied and used by said railroad company, to the

place of beginning. Excepting, nevertheless, hereout the Water  
several water works and their appurtenances, which are in-<sup>cepted.</sup>  
cluded within these boundaries, and such uses of the prem-  
ises immediately adjacent to the same, and such other por-  
tions of the ground as are described in this section, as the  
city may from time to time require for the purposes of its  
Water Department;<sup>1</sup> and saving the rights and franchises  
of the Schuylkill Navigation Company, and the Philadel-<sup>And also  
franchises of  
certain cor-  
porations.</sup>  
phia and Reading, Connecting and Junction Railroad Com-  
panies, as now provided by law.<sup>2</sup>

SECT. 2. That there shall be laid out and constructed a <sup>Roberts' Hollow drive pro-  
vided for.</sup>  
road of easy and practicable grades, extending from the  
intersection of the northerly line of the Park by Belmont  
avenue, on the westerly side of the river Schuylkill, to the  
head of Roberts' Hollow; and thence along the said hollow  
and the river Schuylkill to the foot of City avenue; laid out  
with ground contiguous thereto for ornamentation, of such  
width and so constructed as the Commissioners of Fair-  
mount Park, appointed under authority of the act of the  
General Assembly of the Commonwealth, may determine.  
And the City of Philadelphia hereby declares its design  
and intent to make such road and its contiguous ground a  
part of the aforesaid Park; and it hereby authorizes said  
Commissioners to ascertain by proper survey, and report  
its boundaries, so that the same may be duly appropriated.<sup>3</sup>  
And the said Commissioners shall in like manner lay out <sup>Commis-  
sioners shall  
lay out  
boundary  
avenues.</sup>  
and cause to be opened an avenue outside of and extend-  
ing along so much of the boundary of the Park as is be-  
tween the point of beginning in the description given in

<sup>1</sup>See Act of April 14, 1868, Sec. 1, ante, page 8, wherein the same boundaries are defined by act of Assembly.

<sup>2</sup>The franchises of the above corporations are also excepted by the Act of April 14, 1868, Sec. 3, ante, page 11.

<sup>3</sup>See Act of April 14, 1868, Sec. 2, ante, page 10, wherein the Roberts' Hollow drive is provided for by act of Assembly.

the first section of this Ordinance and Girard avenue; which new avenue shall not be less than one hundred feet in width; and in like manner on the easterly side of the river they shall lay out and cause to be opened a similar avenue, extending outside of and along the Park boundary, from the intersection of Thirty-third street and Pennsylvania avenue, northwardly and westwardly to the river Schuylkill. And the said Commission are hereby authorized and empowered to exercise over the said new avenues, and also over so much of Girard avenue<sup>4</sup> as is included within the limits of the Park, such authority as may be requisite for their proper laying out, decoration, and improvement, and for their preservation as public highways adjacent to the Park.<sup>5</sup>

Commissioners authorized to exercise authority over boundary avenues, and so much of Girard avenue as lies within the Park.

Declaration of intention to appropriate shores of Wissahickon creek.

SECT. 3. The City of Philadelphia hereby declares its intention to appropriate the shores of the Wissahickon creek, on both sides of the same, from its mouth to such point as may hereafter be determined, by said Park Commissioners, and of such width as may embrace the road now passing along the same, and may also protect the purity of the water of said creek, and preserve the beauty of the scenery upon its banks, so that the same may be hereafter added to Fairmount Park, and constitute a part of the same. And the said Commissioners of Fairmount Park are hereby authorized and empowered, with the aid of a proper survey, to define the appropriate limits of the ground proper to be taken for Park uses upon both shores of the Wissahickon, and to report the same for such definite

Commissioners empowered to define the appropriate limits of ground to be taken, and report to Councils.

<sup>4</sup>As a general proposition, but by no means universal, bridges are treated as portions of the highways which cross them, and are to be maintained by the same persons to whom the duty of repairing the highways is committed: 18 P. F. Smith, 406.

<sup>5</sup>So much of the above section as relates to the laying out and control of boundary avenues, has been modified by Sections 7 and 8 of the Act of April 14, 1868, ante, pages 12 and 13.

legislation thereon as may be requisite and proper for the Councils of the City of Philadelphia.<sup>6</sup>

SECT. 4. The City of Philadelphia in pursuance of the several Acts of Assembly enabling it so to do, and of any and all Acts of the General Assembly of the Commonwealth conferring such power upon it,<sup>7</sup> does hereby appropriate and set apart forever the area of land and water comprised within the limits prescribed in the preceding sections of this ordinance, as an open public ground and Park for the preservation of the purity of the Schuylkill water, and of the health and enjoyment of the people forever.<sup>8</sup>

Area of land and water described in preceding sections set apart forever as a public park.

SECT. 5. That in addition to the powers conferred, by the Act of Assembly creating the Commission, upon the Commissioners of Fairmount Park, the City of Philadelphia hereby authorizes and empowers said Commission to take possession of so much of the ground contained within the limits set forth in the preceding sections of this ordinance as may be beyond the limits of the ground appropriated by or under the Act of Assembly establishing said Commission, and to exercise over the same, as part of Fairmount Park, all the powers and authorities which are requisite for its appropriation, its laying out and adornment, as part of the Park;<sup>9</sup> subject, nevertheless, to such appropriation as may, from time to time, be made for such purposes by the Councils of the City.<sup>10</sup>

Commissioners authorized to take possession of ground described in preceding sections, and to exercise control over and improve the same.

Subject to such appropriations as Councils may make.

<sup>6</sup>The appropriation of the shores of the Wissahickon creek, and the manner of defining the Park boundaries thereon, is provided for by the 2d Section of the Act of April 14, 1868, ante, page 10.

<sup>7</sup>See ante, page 1.

<sup>8</sup>See Act of April 14, 1868, ante, page 8.

<sup>9</sup>See Act of March 26, 1867, Sec. 1, ante, page 3, and Act of April 14, 1868, Sec. 3, ante, page 11, and Sec. 5, ante, page 12, and Act of April 21, 1869, Sec. 8, ante, page 26.

<sup>10</sup>So much of the above section as relates to appropriations, is modified by the 4th and 5th Sections of the Act of March 26, 1867, ante, page 6, and by the 11th Section of the Act of April 14, 1868, ante, page 14.

Commis-  
sioners au-  
thorized to  
negotiate  
with owners  
of land.

SECT. 6. That the said Commission be and they are hereby authorized and empowered to negotiate with the owners of so much of the land included within the afore-said limits as is beyond the boundaries mentioned in the Act of Assembly establishing the Commission<sup>11</sup> and to agree with them if it be practicable as to the price of their land,<sup>12</sup> and if it is not practicable so to do, that the Law Department of the City be and the same is hereby authorized and directed, upon the request of said Commission, to take proper steps in the law for the ascertaining and adjusting of the damages attending the taking of such land.<sup>13</sup>

Upon failure  
to agree,  
Law Depart-  
ment to  
take proper  
steps for  
adjusting the  
damages.

<sup>11</sup>Act of March 26, 1867, ante, page 3.

<sup>12</sup>The same power is conferred upon the Commissioners by the Act of April 14, 1868, Sec. 26, ante, page 21.

<sup>13</sup>The clause relating to the Law Department is superseded by the 3d Section of Act of March 26, 1867, ante, page 4, and the 5th Section of Act of January 27, 1870, ante, page 29.

*Ordinance of June 29, 1868. Ordinances 1868, page 281.*

## AN ORDINANCE

To authorize the purchase of a certain tract of land on the west side of the Schuylkill river, in the Twenty-fourth Ward, and to make an appropriation therefor.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the City Solicitor is hereby authorized and directed to examine the title to a certain tract of land situate on the west side of the river Schuylkill, bounded by the Columbia bridge, Montgomery avenue, Fortieth street, and Columbia avenue, in the Twenty-fourth Ward of the said City; containing about four acres and fifty-five perches. And if he approve of the same, that he cause to be prepared a conveyance of the said tract of land to the City of Philadelphia in fee simple. The consideration money therefor to be the sum of twelve thousand and two hundred dollars. Said tract to be within the limits of Fairmount Park, but subject to the use and direction of the Water Department as far as required for engine houses, engines, forcing pumps, etc., to drive the water into Belmont basin, with the restriction that nothing combustible shall be erected or deposited within one hundred feet of the Columbia bridge.

SECT. 2. That the sum of twelve thousand two hundred dollars be, and the same is hereby appropriated to the Mayor of the City of Philadelphia for the purpose of

paying the consideration money for the said tract of land described in the first section hereof, and that the said amount shall be reimbursed from a loan to be created for the further extension of Fairmount Park, and for the improvement thereof.

SECT. 3. Warrants for the same shall be drawn by the Mayor in conformity with existing ordinances.

*Resolution of January 24, 1871. Ordinances 1871,  
page 8.*

## RESOLUTION

Of request to the Commissioners of Fairmount Park and  
to the Legislature.

*Resolved by the Select and Common Councils of the City  
of Philadelphia,* That the Commissioners of Fairmount  
Park be requested to construct within the Park suitable  
fire-proof buildings for a public art gallery and museum  
for free exhibition at all times.

Commis-  
sioners re-  
quested to  
construct  
art gallery  
in the Park.

*Ordinance of June 1, 1892. Ordinances 1892, page 237.*

## AN ORDINANCE

To accept the devises and bequests under the will of Anna H. Wilstach for the use and benefit of the Commissioners of Fairmount Park.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the City of Philadelphia hereby accepts the trust created, devised and bequeathed to said city under the will of Anna H. Wilstach, deceased, on behalf and for the use and benefit of the Commissioners of Fairmount Park; the estate and property so devised and bequeathed to be placed in the possession and under the care and custody, control and management of said Commissioners, in accordance with the terms and conditions and trust stipulated for and created by the said testatrix (pp. 8, 9, 10, 15, 33, 34 of the will as printed for the estate).

*Ordinance of October 15, 1900. Ordinances 1900,  
page 252.*

## AN ORDINANCE

Selecting a certain triangular piece of ground as an open public place for the health and enjoyment of the people.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by the fourth section of an Act approved May 13, 1857, they do select and appropriate the area of ground lying between Spring Garden street, Twenty-fifth street and Pennsylvania avenue, to be laid out and maintained forever as an open space for the health and enjoyment of the people.

SECT. 2. The City Solicitor is hereby directed to file in the Court of Quarter Sessions a petition on behalf of the City setting forth the ground herein appropriated, to the end that the Court shall appoint a jury to assess the damages as provided by law.

SECT. 3. That the care, management and maintenance of the ground hereinbefore selected is hereby committed to the Commissioners of Fairmount Park, who shall exercise the power and authority over the same as by existing laws they now have over Fairmount Park. The expense thereof to be chargeable to the annual appropriations made by the Councils to the said Commissioners.

*Ordinance of December 4, 1901. Ordinances 1901, page 303.*

## AN ORDINANCE

Selecting a certain piece of ground adjoining Fairmount Park as an open public place for the health and enjoyment of the people.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them, by the fourth section of an Act approved May 13, 1857, they do select and appropriate the following areas of ground:

No. 1.—All that certain lot or piece of ground situate in the Twenty-fourth Ward of the City of Philadelphia. Beginning at the southeast corner of Windermere avenue and Duhring (or Steinberg) avenue; thence southeastward along the northeast side of Duhring (or Steinberg) avenue on a line bearing south 65 degrees 48 minutes east 779 feet 10 $\frac{1}{4}$  inches; thence north 71 degrees 25 minutes east 1,269 feet 6 $\frac{3}{8}$  inches to a point in the boundary line of Fairmount Park as designated by Act of Assembly; thence by said line north 33 degrees 6 minutes east 57 feet 9 $\frac{7}{8}$  inches to the southwest side of Windermere avenue as the same is laid down upon the confirmed City plan; thence northwestwardly along the southwest side of said avenue on a curve whose radius is 759 feet a distance of 743 feet 2 $\frac{1}{2}$  inches to a point of tangent in said avenue; thence southwestward along the southeast side of said Windermere avenue on a line bearing south 76 degrees 10 minutes

and 5 seconds west 1,292 feet  $\frac{1}{2}$  an inch to the place of beginning. Containing 14 72-100 acres.

No. 2.—All that certain lot or piece of ground situate in the Twenty-fourth Ward of the City of Philadelphia. Beginning at a point in the middle of the Falls road in line of land dividing this from land now or late of the Philadelphia Country Club; thence north 32 degrees 19 minutes east along the middle of the said Falls road 188 feet  $3\frac{5}{8}$  inches to an angle in said road; thence north 30 degrees 6 minutes east still along the middle of the said Falls road 278 feet  $5\frac{7}{8}$  inches to a point in line of land now or late of Rubicams; thence south 71 degrees 25 minutes west 689 feet  $7\frac{1}{2}$  inches to a point in line of land now or late of the Philadelphia Country Club; thence by said land south 66 degrees 26 minutes east 450 feet  $11\frac{3}{8}$  inches to the place of beginning. Containing 2 419-1000 acres.

No. 3.—All that certain lot or piece of ground situate in the Twenty-fourth Ward of the City of Philadelphia. Beginning at a point in the middle of Falls road in line of land dividing this from land now or late of the Philadelphia Country Club; thence north 32 degrees 19 minutes east along the middle of the said Falls road 188 feet  $3\frac{5}{8}$  inches to an angle in said road; thence north 30 degrees 6 minutes east still along the middle of the said Falls road 278 feet  $5\frac{7}{8}$  inches to a point in line of land now or late of Rubicams; thence north 71 degrees 25 minutes east 579 feet  $10\frac{7}{8}$  inches to the boundary line of Fairmount Park by Act of Assembly; thence south 33 degrees 6 minutes west along said line 863 feet  $10\frac{3}{8}$  inches to a point; thence north 66 degrees 26 minutes west 347 feet  $2\frac{1}{8}$  inches to the place of beginning. Containing 5 386-1000 acres.

To be laid out and maintained forever as open spaces for the health and enjoyment of the people.

SECT. 2. That the City Solicitor is hereby directed to file in the Court of Quarter Sessions a petition on behalf of the City, setting forth the ground herein appropriated to the end that said Court shall appoint a jury of viewers to assess the damages as provided by law.

SECT. 3. That the care, management and maintenance of the ground hereinbefore selected is hereby committed to the Commissioners of Fairmount Park, who shall exercise the power and authority over the same as by existing laws they now have over Fairmount Park.

*Ordinance of March 16, 1911. Ordinances 1911, page 44.*

## AN ORDINANCE

To provide for the construction, installation and maintenance of a public aquarium and museum in the Fairmount Water Works, buildings and fore-bay, and to transfer the control of the said buildings and the machinery therein and site to the Department of the Mayor,<sup>1</sup> and to sell so much of the said machinery as is not needed for aquarium purposes.

WHEREAS, It is desirable that there be established a public aquarium and museum for the pleasure of the people and instruction in the life history of aquatic animals, and the Fairmount Water Works in Fairmount Park is declared by the Honorable the Commissioner of Fisheries of the Commonwealth of Pennsylvania well adapted for such an institution; and

WHEREAS, Under a joint resolution of the Legislature of Pennsylvania, approved the second day of April, A. D. 1905, the collection of mounted specimens of fish and animals and the tanks used by the Department of Fisheries of the State at its exhibit at the World's Fair, St. Louis, in 1904, were donated to the City of Philadelphia for use as an aquarium, and the Commissioner of Fisheries was authorized to supply living Pennsylvania fishes for the same; and

WHEREAS, The Fairmount Water Works are no longer needed for the purpose of supplying the City with water,

<sup>1</sup>By Ordinance of March 29, 1912, the construction, equipment and maintenance of the aquarium were committed to the Commissioners of Fairmount Park.

and it is desirable that the beautiful buildings, together with the standpipe or water tower, be preserved for all time as a fine example of the earlier architecture and methods of supplying water to the people of Philadelphia; therefore

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the buildings known as the Fairmount Water Works in Fairmount Park, the standpipe or water tower, the Greaves' Mansion, and the fore-bay of the said Water Works, and one turbine wheel and pump and all water pipes connected therewith be, and the same are hereby transferred from the Department of Public Works, with the consent of the Commissioners of Fairmount Park, to the Department of the Mayor, for the purpose of a public aquarium and museum, the Water Works building to be occupied by tanks and pools for the display of living fish and salt water fishes, and other aquatic animals; the Greaves' Mansion as a biological laboratory and museum for the display of objects relating to fish and the fisheries, for the exhibit of fresh and salt water fishes and other aquatic animal life, and for the purpose of free lectures on aquatic and other scientific subjects to the public and especially to public school children; and the standpipe or water tower and the fore-bay for the storage and utilization of the needful water supply.

SECT. 2. That before any work shall be begun on the said aquarium and museum the Department shall call on the Commissioner of Fisheries of the Commonwealth of Pennsylvania, Hon. William E. Meehan, for advice and assistance in the drafting of plans, construction, installation and operation of the same, and the said William E. Meehan, Commissioner of Fisheries, shall be requested to oversee and manage the said aquarium and museum subject to the approval of the Department of the Mayor, until

it is completed, but he shall not be considered an employee of the City of Philadelphia or receive any salary.

SECT. 3. The said Department is hereby authorized to sell, at the best prices obtainable, all the pumps and machinery now in the said Water Works, except one turbine wheel, one pump and such other of said machinery as is needed for the said aquarium, and pay the proceeds thereof to the City Treasurer, who shall keep a separate account thereof, it being the intention of Councils to hereafter appropriate and devote the said proceeds to pay for the construction, installation and maintenance of the said aquarium and museum.

SECT. 4 The Bureau of Water is authorized at the request of the said Department to supply sufficient filtered water for the said aquarium and museum. The Electrical Bureau is hereby authorized to wire and install electric lighting apparatus and light the said building at the cost of the City, and the Bureau of Gas is hereby authorized to order the installation of proper gas fixtures therein and supply gas to the same at the cost of the City.

SECT. 5. The public aquarium and museum, when completed, shall be under the control and direction of the Department of the Mayor,<sup>2</sup> and its maintenance be subject to appropriations by the City Councils.

<sup>2</sup>Ante, note 1, page 79.

*Ordinance of April 10, 1911. Ordinances 1911, page 127.*

## AN ORDINANCE

To set aside the Fairmount Reservoir, in Fairmount Park, as a site for the erection of an Art Gallery, and appropriating to the Park Commissioners the sum of two hundred thousand (200,000) dollars for the erection and construction of a public Art Gallery thereon.

WHEREAS, It has been deemed advisable that the site formerly occupied by the old Fairmount Park Reservoir be set aside as a site for the erection of a public Art Gallery; and

WHEREAS: The sum of two hundred thousand (200,000) dollars is now available for the construction of the said Art Gallery, and it is important that the work of construction be begun at an early date.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That all that tract or plot of ground known as the Fairmount Reservoir, situate near the intersection of Twenty-fifth and Spring Garden streets, in the City of Philadelphia, and belonging to the City of Philadelphia and used by the Department of Public Works, (Bureau of Water) be transferred and placed under the control and management of the Commissioners of Fairmount Park, for the use of the City of Philadelphia as a site for a public Art Gallery, and that the sum of two hundred thousand (200,000) dollars authorized by the loan of eleven million two hundred thousand (11,200,000)

dollars approved June 17, 1898, with the amendments thereto, be appropriated to Item 24 in the annual appropriation to the Commissioners of Fairmount Park, for the erection and construction of said Art Gallery.

*Resolution of July 13, 1911. Ordinances 1911, page 264.*

## RESOLUTION

Accepting the provisions of the act entitled "An Act to provide for the planting and care of shade-trees on highways of townships of the first class, boroughs, and cities of the Commonwealth of Pennsylvania, and providing for the cost thereof," approved May 31, A. D. 1907, and suspending Joint Rule No. 30 of the Select and Common Councils.

*Resolved, By the Select and Common Councils of the City of Philadelphia,* That the City of Philadelphia hereby accepts the provisions of the act entitled "An Act to provide for the planting and care of shade-trees on highways of townships of the first class, boroughs, and cities of the Commonwealth of Pennsylvania, and providing for the cost thereof," approved May 31, A. D. 1907,<sup>1</sup> and that Joint Rule No. 30 of the Select and Common Councils is hereby suspended to enable the Clerks of Councils to present this resolution to the Mayor for his approval or disapproval.

<sup>1</sup>Ante, page 47.

*Ordinance of July 27, 1911. Ordinances 1911, page 296.*

## AN ORDINANCE

Appropriating certain tracts of ground in the Twenty-second Ward as a park and open place for the health and enjoyment of the people, and placing said ground in the custody and management of the Commissioners of Fairmount Park.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in the pursuance of the authority vested in them by the Fourth Section of an Act of Assembly, approved May 13, 1857, they do select and appropriate for park purposes, and for the health and enjoyment of the people forever, the following tracts of ground in the Twenty-second Ward: All that certain triangular lot or piece of ground, situate in the Twenty-second Ward of the City of Philadelphia: Beginning at a point at the intersection of the southwest side of Wayne avenue (80 feet wide), and the northwest side of Cliveden avenue (80 feet wide); thence along the northwest side of Cliveden avenue 62.388 feet to the northeast side of Lincoln avenue (80 feet wide); thence along the northeast side of Lincoln avenue by a curve to the right, whose radius is 1,758.183 feet, 93.968 feet to the southwest side of Wayne avenue; thence along the southwest side of Wayne avenue 71.720 feet to the place of beginning. Containing 0.527 acres.

All that certain lot or piece of ground, with the messuage or tenement thereon erected, situate in the Twenty-

second Ward of the City of Philadelphia: Beginning at a point at the intersection of the southwest side of Wayne avenue (80 feet wide) and the northwest side of Johnson street (50 feet wide); thence along the northwest side of Johnson street 303.656 feet to the north side of Lincoln avenue (80 feet wide); thence along the north side of Lincoln avenue, by a curve to the right, whose radius is 1,758.183 feet, 346.345 feet to the southeast side of Cliveden avenue (80 feet wide); thence along the southeast side of Cliveden avenue 92.876 feet to a point of curve; thence by a curve to the right, whose radius is 32.612 feet, 50.486 feet to the southwest side of Wayne avenue; thence along the southwest side of Wayne avenue 268.231 feet to the place of beginning. Containing 1.517 acres.

All that certain lot or piece of ground, situate in the Twenty-second Ward of the City of Philadelphia: Beginning at a point in the intersection of the northwest side of Johnson street (50 feet wide) and the southwest side of Lincoln avenue (80 feet wide); thence extending along the southwest side of Lincoln avenue by a curve to the right, whose radius is 1,838.283 feet, 341.491 feet to the southeast side of Cliveden avenue (80 feet wide); thence along the southeast side of Cliveden avenue 118.855 feet to a point; thence by a curve to the left, whose radius is 1,938.183 feet and which is parallel to Lincoln avenue and 100 feet distant therefrom, 336.480 feet to the northwest side of Johnson street; thence along the northwest side of Johnson street 108.180 feet to place of beginning. Containing 0.778 acres.

SECT. 2. That the Mayor is hereby authorized and directed to enter security in the name of the City of Philadelphia for the payment of any damages that may be awarded by reason of the taking of the said ground, and

thereupon possession of the same shall be taken for public use, and the City Solicitor shall begin and conduct the proper proceedings in the Court of Quarter Sessions for the assessment of damages for the said taking.

SECT. 3. That the ground taken by this ordinance is hereby transferred to the custody of the Commissioners of Fairmount Park, to be controlled and managed by said Commissioners as an open public place for the health and enjoyment of the people, subject to such regulations as said Commissioners shall adopt.

*Ordinance of Feb. 17, 1912. Ordinances 1912, page 8.*

## AN ORDINANCE

Making it the duty of the Director of the Department of Public Works to study and develop Comprehensive Plans for the future development of the City of Philadelphia; providing for the appointment and regulating the powers, duties and procedure of a Permanent Committee on Comprehensive Plans to advise, assist and co-operate with the Director of the said Department, and making an appropriation for the payment of the salaries of the employees and the maintenance of the said Committee.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That it shall be the duty of the Director of the Department of Public Works to study, plan, suggest and develop Comprehensive Plans for the future development of the City of Philadelphia.

SECT. 2. A Permanent Committee on Comprehensive Plans to advise, assist and co-operate therein with the Director of the Department of Public Works shall be created. The Mayor shall be *ex-officio* a member of the said Committee, which shall in addition consist of the Director of the Department of Public Works, *ex-officio*, the Chief of the Bureau of Surveys, *ex-officio*, the Presidents of the Select and Common Councils, *ex-officio*, the President of the Fairmount Park Commission, *ex-officio*, the Chairman of the Finance Committee of Councils, *ex-officio*, and of ten citizens who shall be appointed by the Mayor. The terms of the ten citizens first appointed shall end on the

first Monday in December, 1913, and thereafter the term of the appointive members of the said Committee shall be for two years. The Committee shall organize immediately upon the appointment of its members; it shall make such rules and regulations as may be deemed necessary for the purposes for which it is appointed and shall hold stated or special meetings at such times or on such notice as it may by resolution provide. The Mayor shall be the Chairman of the said Committee and preside at all meetings. Minutes of the meetings of the Committee shall be kept and permanently recorded.

SECT. 3. The duties of the said Committee are to act as an Advisory Board to the Director of the Department of Public Works, and to advise and suggest to the Mayor and the Director such plans or suggestions for the physical and material improvement of the City as may seem to the said Committee proper and best adapted for the future development of the City along comprehensive lines. The said Committee for this purpose shall have power to suggest changes in existing plans, and from time to time suggest the adoption or develop further plans for suggestion. No rule, regulation, power or act of the Committee shall in any wise conflict with or usurp the powers or duties vested by law in any Department or Bureau of the City Government as at present established, but the said Committee is solely empowered to act as an Advisory Committee, offering suggestions for consideration by the proper executive officials whose duty it would be to carry out such suggestions if deemed advisable and legally authorized.

SECT. 4. The Director of the Department of Public Works is empowered to appoint a secretary of the Committee on Comprehensive Plans at a salary of two thousand five hundred (2,500) dollars per annum, said

appointment to date from January 1, 1912, and to appoint civil, mechanical, hydraulic, sanitary, landscape, architectural and consulting engineers, gardeners, architects, experts, advisers, assistants and such other employees as may be necessary to further the object for which the said Committee is created.

SECT. 5. There is hereby appropriated to the Department of Public Works (Director's Office): To Item 6, for the Committee on Comprehensive Plans, for the year 1912, for the salary of the secretary, two thousand five hundred (2,500) dollars; for salaries of engineers, experts, and other employees, as above enumerated, six thousand five hundred (6,500) dollars; and for postage, transportation, hire of vehicles, cleaning offices, telephone, telegraph and messenger service, books, periodicals, stationery and other incidental expenses, one thousand (1,000) dollars; total, ten thousand (10,000) dollars.

SECT. 6. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed.

## HUNTING PARK

### AND

## LEGACY OF ELLIOTT CRESSON

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*Ordinance of July 10, 1856. Ordinances 1856, page 177.*

### AN ORDINANCE

Relating to "Hunting Park," in the Twenty-third Ward,  
of the City of Philadelphia.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain,* That all that certain tract, piece or parcel of ground, situate in the Twenty-third Ward of the City of Philadelphia, commencing at a point in the easterly line of the Old York road, now called York avenue, and the middle of Nicetown lane (formerly thirty-three feet wide, and now increased to the width of sixty feet by the addition of thirteen feet six inches on each side, as agreed upon by the owners of property on each side thereof); thence along the middle of said Nicetown lane south, sixty degrees east, eighty-three perches and forty-seven hundredths of a perch to a point; thence by land of ———, north, thirty degrees east, thirty-one perches and seven-tenths of a perch to a corner; thence by land of ———, north, twenty-seven degrees five minutes west, eighty-six perches and two-tenths of a perch to a cor-

Boundaries  
of Hunting  
Park de-  
fined.

ner; thence by land of the said Jacob Steinmetz, north, one and one-half degrees east, twenty-six perches and eight-tenths of a perch to a corner; thence by the same west forty-five perches and eight-tenths of a perch to the easterly line of the York avenue aforesaid; thence along said easterly line of said York avenue south, two degrees twenty-five minutes west, eighty-nine perches and twenty-nine hundredths of a perch more or less to the place of beginning; containing about forty-three acres twenty-one and two-tenths square perches of land, the which premises were generously given to the City of Philadelphia by several of her citizens, as a free gift, to be used as a public park, free of access for all the inhabitants of the city, and for the health and enjoyment of the people, forever, be and the same is hereby devoted and dedicated to public use as and for a Park, and the said area of ground shall be called "Hunting Park"

Sale of intoxicating liquors and merchandise prohibited.

Penalty for so doing.

How recovered.

SECT. 2. It shall not be lawful for any person or persons to sell or dispose of intoxicating liquors, or of merchandise of any kind whatsoever, within the boundaries of said Park; and if any person shall offend against the provisions of this ordinance, he or she so offending shall forfeit and pay for each offence the sum of twenty dollars, which penalty shall be sued for before any alderman of the City of Philadelphia, and the same being recovered, the informer shall be entitled to the one-half part thereof.

Commissioner of City Property required to cause said Park to be laid out, under certain restrictions.

SECT. 3. It shall be the duty of the Commissioner of City Property to cause the said Park to be laid out by some suitable and competent person, who shall be approved by the joint special Committee of Councils having charge of this subject, and upon such plan as the said Committee may, in conjunction with the Committee of the donors, consent to and approve; the said Committee shall report to Councils such plan and cost of same. And he shall

also, subject to the like supervision and approval, cause the same to be planted with suitable and appropriate trees, and otherwise prepared for its future uses.

SECT. 4. That the sum of four thousand dollars be and the same is hereby appropriated to meet the expenses which may be incurred in the execution of this ordinance, the same to be in lieu of any previous appropriation to this purpose.

*Act of May 15, 1871. P. L. 873.*

## AN ACT

Enlarging the duties and powers of the Commissioners of Fairmount Park, by requiring them to take charge of Hunting Park in the City of Philadelphia, and of the legacy of Elliott Cresson, providing for the planting of trees in said city.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the*

Care of Hunting Park transferred to Commissioners of Fairmount Park.

To lay out, enclose, plant and adorn the same. And to exercise like powers over the same as they exercise over Fairmount Park.

*authority of the same,* That the care and management of Hunting Park, in the City of Philadelphia, is hereby transferred and committed to the Commissioners of Fairmount Park, who shall be and they are hereby authorized and required to take charge of the same, and lay out, enclose, plant, and adorn the same; and who shall possess and exercise the like powers and authorities, in every particular, over the said Hunting Park, as now by existing laws, or hereafter by such as may be passed, they now have, or may hereafter come to have, over Fairmount Park, in the City of Philadelphia.

Commissioners may lay out an avenue from Hunting Park to Fairmount Park.

SECT. 2 It shall and may be lawful for said Commissioners to survey, locate, lay out and establish an avenue,<sup>1</sup> which shall not be less than one hundred feet in width, which shall extend from Hunting Park to Fairmount Park, connecting the two Parks with each other, at such points

<sup>1</sup>See Act of April 4, 1872, Sec. 1, post, page 97.

as the Commissioners aforesaid may think best; and all and singular the provisions of existing laws relating to Fairmount Park, concerning the mode of acquiring possession of land and of the title to land, are hereby extended to the land and property necessary, in the judgment of said Commission, to be required in order to the laying out and establishment of said avenue; the said avenue shall be laid out, paved and adorned as a Park road by said Commissioners, and shall be under their police control and supervision.

Land required therefor shall be acquired under laws pertaining to the acquisition of land for Fairmount Park. Said avenue shall be a Park road, and shall be under the control of the Commissioners.

SECT. 3. That for the purpose of squaring the said Hunting Park, and making the same more suitable in shape for use as a Park, the Park Commissioners may negotiate with the owner of ground on the east side of said Hunting Park and south side of Bristol street, and acquire the title to an area of ground, at least as large as all that part of the said Hunting Park situate north of the line of said Bristol street, which latter ground shall be given in exchange for the ground so acquired east of the said Hunting Park and south of said Bristol street, and a deed or deeds so agreed to be given in even exchange to the person entitled to receive the same, shall be executed by the Mayor of the City of Philadelphia whenever he shall be requested so to do by the Park Commissioners; and the said exchange to be made on or before the first day of January, one thousand eight hundred and seventy-two.<sup>2</sup>

Commissioners may make exchanges of land for the purpose of squaring said Park before January 1, 1872.

SECT. 4. It shall be the duty of the Councils of the City of Philadelphia from time to time, on the request of said Commissioners to provide such moneys as the said Commission may require for the proper execution of the duties imposed upon them by this act.

Councils shall provide such moneys as the Commissioners may require.

<sup>2</sup>See Sec. 2 of the Act of April 4, 1872, post, page 93.

Care of the  
Elliott Cresson  
legacy  
transferred  
to the Park  
Commissioners.

SECT. 5. The care and management of the legacy<sup>3</sup> made to the City of Philadelphia by the late Elliott Cresson of the sum of five thousand dollars, the income of which is to be applied to the planting of shade trees in said city, in accordance with the provisions of his will, is hereby assigned, appointed, and transferred to the Commissioners of Fairmount Park, who are hereby authorized and directed to receive, execute and discharge the said trust. and to whom the City of Philadelphia is hereby authorized to pay over any accumulation of interest and income now existing, and such as from time to time accrues for that purpose.

<sup>3</sup>Extract from the will of Elliott Cresson, deceased. "Item. I give and bequeath to the Mayor and Councils of Philadelphia the sum of \$5,000 in trust, as a perpetual fund, the income from which I desire shall be annually forever expended in planting and renewing shade trees, especially in situations now exposing my fellow citizens to the heat of the sun—desiring that due care be taken to select the best varieties of fine trees, and excluding such foreign trash, as the Lombardy Poplar, Ailanthus, Paper Mulberry and similar exotics." This is a good charitable bequest: 6 C. 437.

*Act of April 4, 1872. P. L. 900.*

## A SUPPLEMENT

To an act, entitled “ An act enlarging the duties and powers of the Commissioners of Fairmount Park, by requiring them to take charge of Hunting Park, in the City of Philadelphia, and of the legacy of Elliott Cresson, providing for the planting of trees in said city.”

WHEREAS, By the second section of the act to which this Preamble. is a supplement, it is enacted that it shall and may be lawful for said Commissioners to survey, locate, lay out and establish an avenue which shall not be less than one hundred feet in width, which shall extend from Hunting Park to Fairmount Park, et cetera; now therefore,

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the said Commissioners of Fairmount Park be authorized in their discretion, and they are hereby authorized to open, within a reasonable time, the street known as, or designated, Bristol street, on the plan of the City of Philadelphia, from Hunting Park to Fairmount Park, in the place and stead of the avenue authorized by the said second section<sup>1</sup> of the said act to be located, laid out and established; and that all and singular, the provisions of existing laws relating to Fairmount Park, concerning the mode of acquiring possession of land, and of the title to land, are hereby extended to the land and Park Commissioners may open Bristol street instead of the avenue authorized by the 2d section of the Act of May 15, 1871, Land required for said street, how acquired.

<sup>1</sup>See Act of May 15, 1871, Sec. 2, ante, page 94.

property necessary, in the judgment of said Commissioners, to be required in order to the opening of said street; the said street may be opened, macadamized, adorned and kept in repair as a Park road by said Commissioners, and shall be under their police control and supervision.

Shall be kept  
as a Park  
road.

Commis-  
sioners may  
make ex-  
change of  
land to  
square  
Hunting  
Park before  
July 1, 1873.

SECT. 2. That in order to square the said Hunting Park, and to make the same suitable and more attractive in shape for the purposes of a Park, the said Commissioners may, in their discretion, negotiate with the owner of ground on the east side of Hunting Park and the south side of Bristol street, and may acquire the title to an area of ground as large as all that part of the said Hunting Park situate north of the line of the said Bristol street; which latter ground may be given in exchange for the ground so acquired east of the said Hunting Park and south of the said Bristol street, and a deed or deeds so agreed to be given in exchange to the person entitled to receive the same, shall be executed by the Mayor of the City of Philadelphia, whenever he shall be requested so to do by the Park Commissioners, and the said exchange to be made on or before the first day of July, one thousand eight hundred and seventy-three.<sup>2</sup>

<sup>2</sup>See Act of May 15, 1871, Sec. 3, ante, page 95.

*Ordinance of Sept. 8, 1903. Ordinances 1903, page 189.*

## AN ORDINANCE

To extend Hunting Park.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by the fourth section of an Act approved May 13, 1857, they do select and appropriate the lot of ground bounded on the north by Wingohocking street, on the east by Ninth street, on the south and west by Nicetown lane, Hunting Park and Old York road, to be laid out and maintained forever as an extension of Hunting Park for the health and enjoyment of the people.

SECT. 2. The City Solicitor is hereby directed to file in the Court of Quarter Sessions a petition on behalf of the City setting forth the ground herein appropriated to the end that said Court shall appoint a jury to assess the damages provided by law.

SECT. 3. That the Department of Public Works is directed to strike from the City plan all unopened streets within the boundaries of the extension of said Park above described.

## BURHOLME PARK

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*Ordinance of July 27, 1905. Ordinances 1905, page 181.*

### AN ORDINANCE

To accept the devise contained in the will of Robert W. Ryerss, deceased, of a tract of land and buildings near Fox Chase, in the Thirty-fifth Ward of the City of Philadelphia, and the life estate of Mary R. Bawn, his widow, therein; to place the same upon the City plan under and by the name of "Burholme Park," and to direct the Commissioners of Fairmount Park to assume the custody and maintenance thereof.

WHEREAS, Robert W. Ryerss, in and by his last will and testament, did, *inter alia*, give, devise and bequeath, after the death of his wife, all that part of his farm near Fox Chase, with his country seat called "Burholme" and his dwelling house on the hill, with free access thereto, the house to be fitted up and used as a library, reading room and museum, to be free to the public, and the grounds to be used as a park, to be called "Burholme Park," and to be free for the use and enjoyment of the people forever; and

WHEREAS, Mary R. Bawn, the widow of the said Robert W. Ryerss, and now the wife of John G. Bawn, is desirous of conveying her life estate in the above-mentioned premises to the City of Philadelphia, and to deliver immediate possession thereof to the City, and to also deliver the books,

pictures, old china, silver, glass and furniture and other curiosities mentioned in the said will, as also many like articles collected by her; therefore,

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the devise and bequests contained in the will of Robert W. Ryerss, deceased, and the offer of his widow, the said Mary R. Bawn, to convey her life estate in the premises thereby devised, be, and the same are hereby, accepted, and that upon the execution of a deed of conveyance for the said life estate satisfactory to the City Solicitor, the Director of the Department of Public Works be, and he is hereby, authorized and directed to place upon the City plan, as and for a public park, all that certain lot or piece of ground, situate in the Thirty-fifth Ward of the City of Philadelphia, bounded and described in accordance with a survey and plan made by Clement B. Webster, Surveyor and Regulator of the Fourteenth District, November 11th, 1904, as follows: Beginning at an iron pin set for a corner at the intersection of the center lines of Township Line road, 33 feet wide, and Central avenue ("the Township Line and Cheltenham roads"); thence extending north  $51^{\circ}12'56''$  west 1423 feet and  $\frac{3}{4}$  of an inch along the center line of Township Line road, to an iron pin; thence north  $10^{\circ}7'53''$  east 376 feet  $11\frac{3}{8}$  inches to a marble stone; thence north  $44^{\circ}37'53''$  east 947 feet  $1\frac{1}{4}$  inches to a marble stone; thence south  $54^{\circ}16'37''$  east 565 feet  $5\frac{1}{2}$  inches to a marble stone; thence north  $29^{\circ}59'53''$  east 61 feet  $8\frac{1}{2}$  inches to a marble stone; thence south  $54^{\circ}24'34''$  east 524 feet  $8\frac{3}{8}$  inches to a marble stone; thence south  $53^{\circ}31'51''$  east 445 feet  $7\frac{3}{8}$  inches to a granite stone; thence south  $39^{\circ}28'34''$  west 1,411 feet  $5\frac{3}{4}$  inches crossing two granite stones, to an iron pin set for a corner at the intersection of the center lines of Township Line road and Central avenue and the place of beginning, containing

48.1382 acres. Bounded on the southwest by the Township Line road, on the northwest and northeast by lands of the Jeanes estate, and on the southeast by other lands of the estate of Robert W. Ryerss, deceased, under the name of "Burholme Park."

SECT. 2. After the execution and delivery of the deed of conveyance aforesaid, the Commissioners of Fairmount Park are hereby authorized and directed to assume the care, management and maintenance of the said "Burholme Park." The said Commissioners are further authorized and directed to fit up the mansion house for use as a public library, reading room and museum, and to arrange and maintain therein the books, pictures, old china, silver, glass and furniture and other curiosities devised to the City by the will of the said Robert W. Ryerss, as well as such like articles donated to the City by the said Mary R. Bawn; said building to be known as the "Robert W. Ryerss Library and Museum."

## COBB'S CREEK PARK

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*Ordinance of June 27, 1904. Ordinances 1904, page 154.*

### AN ORDINANCE

To place upon the City plan a drive or parkway along the eastern bank of Cobb's Creek, and to place upon the plan tracts of ground as open public places and park between said avenue and Cobb's Creek, for the health and enjoyment of the people.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the Department of Public Works (Board of Surveyors) be authorized and directed to place upon the City plan a drive or parkway one hundred feet wide along, and on the eastern bank and valley of Cobb's Creek, from Market street to south of Christian street, following generally the line of Sixty-third street; thence curving eastwardly to, on or near the line of Federal street; thence eastwardly along said line to, on or near the line of Fifty-eighth street; thence southwardly along said street to, on or near the line of Hoffman avenue; thence along the same westward to, on or near the line of Fifty-ninth street; thence southward along the same to south of Willows avenue; thence curving westwardly and southwardly along the bank of Cobb's Creek to Woodland avenue.

SECT. 2. That the Department of Public Works (Board of Surveyors) be also authorized to place on the City plan the following described property as a park, for the health

and enjoyment of the people: All that portion lying between the proposed Cobb's Creek avenue and Cobb's Creek and bounded upon the north by Market street, and on the southwest and south by Sixty-first street and Baltimore avenue, containing seventy-five acres, more or less.<sup>1</sup> Also the portion lying between the proposed avenue and Cobb's Creek, and bounded on the north by the north side of Hoffman avenue, and on the southwest by Mt. Moriah Cemetery, containing thirty-four acres more or less. Also, the portion lying between the proposed avenue and Cobb's Creek south of the Mt. Moriah Cemetery and to Woodland avenue, containing twenty acres more or less.

<sup>1</sup>Amended by Ordinance of June 26, 1906, post, page 105.

*Ordinance of June 26, 1906. Ordinances 1906, page 172.*

### AN ORDINANCE.

To amend ordinance approved June 27, 1904, entitled "An Ordinance to place upon the City plan a drive or parkway along the eastern bank of Cobb's Creek, and to place upon the plan tracts of ground as open public places and park between said avenue and Cobb's Creek for the health and enjoyment of the people.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the ordinance entitled "An Ordinance to place upon the City plan a drive or parkway along the eastern bank of Cobb's Creek, and to place upon the plan tracts of ground as open public places and park between said avenue and Cobb's Creek for the health and enjoyment of the people," approved the twenty-seventh day of June, A. D. 1904,<sup>1</sup> be altered and amended by striking out in Section 2 the following: "All that portion lying between the proposed Cobb's Creek avenue and Cobb's Creek, and bounded on the north by Market street and on the southwest and south by Sixty-first street and Baltimore avenue, containing seventy-five acres more or less," and inserting in lieu thereof the following: "All that portion lying between the proposed Cobb's Creek avenue and Cobb's Creek, and bounded on the north by a line parallel with and a distance of one hundred feet southward from the south side of Market street and on the southwest and south by Sixty-first street and Baltimore avenue, containing seventy-four and one-half acres more or less."

<sup>1</sup>Ante, page 103.

*Ordinance of July 10, 1907. Ordinances 1907, page 184.*

## AN ORDINANCE

Condemning Cobb's Creek Park and Parkway, as authorized to be placed on the plan by ordinance approved June 27, 1904, as an open public place for the health and enjoyment of the people.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by Act of Assembly, they do select and appropriate the ground as authorized to be placed on the plan by ordinance approved June 27, 1904,<sup>1</sup> as a park and parkway for the health and enjoyment of the people, and more particularly described as follows: As a drive or parkway one hundred feet wide along the line of Fifty-ninth street and on the eastern bank and valley of Cobb's Creek, from Hoffman avenue to about Florence avenue; thence curving westwardly and southwardly along the bank of Cobb's Creek to Woodland avenue. And as a park, all that portion lying between the proposed Cobb's Creek avenue or Fifty-ninth street and Cobb's Creek, and bounded on the north by the north side of Hoffman avenue, and on the southwest by Mount Moriah Cemetery, containing twenty-four acres more or less. Also the portion lying between the proposed avenue and Cobb's Creek south of the Mount Moriah Cemetery and to Woodland avenue, containing twenty acres more or less.

SECT. 2. That the Mayor is hereby authorized and directed to enter security in the name of the City for the payment of any damages that may be awarded by reason

<sup>1</sup>Ante, page 103.

of the taking of the said ground, and thereupon possession of the same shall be taken for public use, and the City Solicitor shall begin and conduct the proper proceedings in the Court of Quarter Sessions for the assessment of damages for the said taking.

SECT. 3. That the ground taken by this ordinance is hereby transferred to the custody of the Commissioners of Fairmount Park, to be controlled and managed by said Commissioners as an open public place for the health and enjoyment of the people, subject to such regulations as said Commissioners shall adopt.

*Ordinance of Nov. 5, 1909. Ordinances 1909, page 256.*

## AN ORDINANCE

Appropriating a certain tract of ground along Cobb's Creek, between Market street and the County line, as a park and open public place for the health and enjoyment of the people; and placing said ground under the custody and management of the Commissioners of Fairmount Park.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by the fourth section of an Act of Assembly, approved May 13, 1857, they do select and appropriate, for park purposes and for the health and enjoyment of the people forever, the certain tract of ground beginning at the northwest corner of Sixty-third and Market streets; thence northward along the west side of Sixty-third street five hundred and sixty feet to the north side of Arch street; thence westward along the north side of Arch street two hundred and seventy-five feet to the west side of Gross street; thence northward along the west side of Gross street five hundred feet to the south side of Race street; thence westward along the south side of Race street eight hundred and forty-five feet to the west side of Sixty-fifth street; thence northward along the west side of Sixty-fifth street thirty feet to the center line of Race street as sixty feet wide; thence westward along the center line of Race street as sixty feet wide five hundred and thirty feet to the center

line of Sixty-sixth street; thence northward along the center line of Sixty-sixth street thirty feet to the north line of Race street; thence westward along the north line of Race street to the west side of Cardington road; thence southward along the west side of Cardington road to a point; thence westward to the southwest corner of Seventy-first and Race streets; thence southward along the west side of Seventy-first street and along the west boundary of Cobb's Creek Park as now upon the City plan to the middle of Cobb's Creek and the boundary line between Philadelphia and Delaware Counties; thence eastward along the center line of Cobb's Creek to a point on the northerly side of the Cardington Division of the Philadelphia and Delaware Railroad; thence eastward along the northerly side of said railroad on a line bearing south seventy-seven degrees, twenty-one minutes east five and seven hundred and fifteen one-thousandths feet to a point of curve in said railroad; thence southeastward on a curve, the radius of which is three hundred and fourteen and ninety-nine one-hundredths feet a distance of four hundred and forty-four and one hundred and twenty-six one-thousandths feet to the boundary line between Philadelphia and Delaware Counties; thence along the said boundary line south fifty-one degrees thirty-seven minutes east two and fifteen one-hundredths feet; then south fifty-one degrees thirty-one minutes east seventy-eight and ninety-five one-hundredths feet to the north side of Market street; thence eastward along the north side of Market street one hundred and seventy-nine and eight-tenths feet to the place of beginning; being a part of property authorized to be placed upon the City plan for park purposes by ordinance approved July 7, 1908. Also the tract of ground beginning at a point on the west side of Cardington road and in line of the north side of Race street continued from the east; thence westward to the northwest corner of Carter and Race streets;

thence northwestward along the northeast side of Race street to the southeast side of Lansdowne avenue; thence southwestward along the southeast side of Lansdowne avenue to the northeast side of Arch street; thence northwestward along the northeast side of Arch street to the line dividing Philadelphia and Montgomery Counties; thence southwestward along the line dividing Philadelphia from Montgomery and Delaware Counties to Cobb's Creek; thence southeastward along Cobb's Creek on the line dividing Philadelphia and Delaware Counties to a point west of Seventy-first street; thence northward along the line of Cobb's Creek Park as now plotted upon the confirmed City plan to a point on the southwest corner of Seventy-first and Race streets; thence eastward to a point on the west side of Cardington road; thence northward along the west side of Cardington road to the place of beginning.

SECT. 2. That the Department of Public Works (Board of Surveyors) be authorized and directed to place on the City plan as a public park so much of the property described in Section 1 as is not now on the plan.

SECT. 3. The City Solicitor is hereby directed to file in the Court of Quarter Sessions a petition on behalf of the City setting forth the ground herein appropriated to the end that said Court shall appoint a jury to assess the damages as provided by law.

SECT. 4. As soon as the City shall become legally possessed of the tract of ground herein described, the said tract shall be named Cobb's Creek Park, and shall be placed under the control of the Commissioners of Fairmount Park, subject to such rules and regulations as have been, or shall be, from time to time, established by the said Commissioners for the care, management and maintenance of Fairmount Park: *Provided, however, That*

such control shall not extend over streets or roads now upon the City plan, or hereafter placed thereon, as public highways over, across or through said park.

SECT. 5. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed.

*Ordinance of December 14, 1910. Ordinances 1910,  
page 288.*

## AN ORDINANCE

Condemning Cobb's Creek Park and Driveway as authorized to be placed on the plan by ordinance approved June 27, 1904, as an open public place for the health and enjoyment of the people.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by Act of Assembly, they do select and appropriate the ground as authorized to be placed on the plan by ordinance approved June 27, 1904, as a parkway and driveway for the health and enjoyment of the people, and more particularly described as follows: As a drive or parkway one hundred feet wide, beginning at Sixty-third street and Christian street, following generally the line of Sixty-third street, thence curving easterly to, on or near the line of Federal street; thence easterly along said line to Baltimore avenue; and as a park, all that portion lying between the center line of Cobb's Creek, the south side of Christian street, the west and southwesterly sides of Cobb's Creek Parkway, the westerly side of Sixty-first street and the northern side of Baltimore avenue.

SECT. 2. The Mayor is hereby authorized and directed to enter security, in the name of the City of Philadelphia, for the payment of any damages that may be awarded by reason of the taking of the said ground, and thereupon possession of the same shall be taken for public use.

SECT. 3. That the ground taken by this ordinance is hereby transferred to the custody of the Commissioners of Fairmount Park, to be controlled and managed by the said Commissioners as an open public place for the health and enjoyment of the people, subject to such regulations as said Commissioners shall adopt.

*Ordinance of May 4, 1911. Ordinances 1911, page 159.*

## AN ORDINANCE

Condemning the unopened portion of Cobb's Creek Park and Parkway, between Market street and the south line of Cedar avenue, extended, as an open public place for the health and enjoyment of the people.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by Act of Assembly, they do select and appropriate the unopened portion of Cobb's Creek Park and Parkway, as now on the City plan, between Market street and the south line of Cedar avenue, extended, in the Forty-sixth Ward, as a park and parkway for the health and enjoyment of the people.

SECT. 2. The Mayor is hereby authorized and directed to enter security, in the name of the City of Philadelphia, for the payment of any damages that may be awarded by reason of the taking of the said ground, and thereupon possession of the same shall be taken for public use.

SECT. 3. That the ground taken by this ordinance, for park purposes, is hereby transferred to the custody of the Commissioners of Fairmount Park, to be controlled and managed by the said Commissioners as an open public place for the health and enjoyment of the people, subject to such regulations as said Commissioners shall adopt.

## MORRIS PARK

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*Ordinance of December 2, 1911. Ordinances 1911,  
page 514.*

### AN ORDINANCE

To place on the City plan as a public park certain tracts of land in the Thirty-fourth Ward, as additions to Cobb's Creek Park and Morris Park, and to make the necessary revision of lines and grades of streets.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the Department of Public Works (Board of Surveyors) be authorized to place upon the City plan as a public park the following described tracts of land in the Thirty-fourth Ward, as additions to Cobb's Creek Park and Morris Park: Beginning at the southwest corner of Cardington road and Lansdowne avenue; thence southward along the west side of Cardington road to the north side of Race street and present boundary of Cobb's Creek Park; thence westward to the northwest corner of Carter street and Race street; thence northwestward along the northeast side of Race street to the southeast side of Lansdowne avenue; thence northeastward along the southeast side of Lansdowne avenue to the place of beginning.

Also, beginning at a point at the northwest corner of Race street and Daggett street; thence northward along the west side of Daggett street to the south side of Vine street; thence westward along the south side of Vine

street to the east side of Sixty-seventh street; thence northward along the east side of Sixty-seventh street to the north side of Vine street; thence westward along the north side of Vine street to the east side of Sixty-ninth street; thence southward along the east side of Sixty-ninth street to the north side of Race street; thence eastward along the north side of Race street to the middle of Sixty-sixth street; thence southward along the middle of Sixty-sixth street thirty feet; thence eastward parallel with Race street to a point in line with the west side of Daggett street; thence northward on line with the west side of Daggett street thirty feet to the place of beginning.

[Also, beginning at the north corner of Lansdowne avenue and Race street; thence northwestward along the northeast side of Race street to City avenue; thence southwestward along City avenue to the northeast line of Arch street; thence southeastward along the northeast side of Arch street to the northwest side of Lansdowne avenue; thence northeastward along the northwest side of Lansdowne avenue to the place of beginning.]<sup>1</sup>

Also, beginning at a point at the northwest corner of Lebanon avenue and Sixty-ninth street; thence northward along the west side of Sixty-ninth street to a point in the line of Morris Park, north of Malvern avenue; thence southwestward along Morris Park ninety-six and two hundred and forty-five one-thousandths feet to an angle; thence northwestward along the line of said Morris Park three hundred and fifty-seven and eight hundred forty-three one-thousandths feet to the west side of Sixty-ninth street; thence northward along the west side of Sixty-ninth street to the southeast side of Woodbine avenue;

<sup>1</sup>Repealed by Ordinance of March 19, 1912, post, page 127.

thence southwestward along the southeast side of Woodbine avenue to a point opposite the intersection of a proposed street to be called Seventy-second street; thence northwestward to the west corner of the proposed Seventy-second street and Woodbine avenue; thence northwestward along the south side of the proposed Seventy-second street to the line dividing Philadelphia and Montgomery Counties; thence southwestward along the line dividing Philadelphia and Montgomery counties to a point in line with the northeast side of a proposed street to be called Seventy-third street; thence southeastward along the line of a proposed street to be called Seventy-third street and partly along line dividing lands now or late of Joseph R. Rhoads and The Commonwealth Title and Trust Company to a corner of the aforesaid mentioned property and near the center line of the proposed low-grade freight line of the Pennsylvania Railroad; thence south five degrees twelve minutes thirty-nine and twenty-nine one-hundredths seconds east three hundred and six and eight hundred and fifty-nine one-thousandths feet to line of land now or late of James Rhoads; thence northeastward along said land to the northwest side of the proposed Seventy-third street; thence southwestward along the northwest side of said proposed Seventy-third street to a point at or near the intersection of the proposed Seventy-third street and proposed Rhoads street; thence southeastward along the northeast side of the proposed Seventy-third street to its intersection with the north line of Lebanon avenue; thence eastward along the north side of Lebanon avenue to the northwest corner of Lebanon avenue and Sixty-ninth street and place of beginning.

Also, beginning at the southwest corner of Sixty-ninth street and City avenue; thence southward along the west side of Sixty-ninth street to the present boundary of

Morris Park; thence northeastward along the line of Morris Park to an angle in said Park line; thence northwestward along the said present boundary line of said Morris Park to a point on the southerly side of City avenue, said point being eighty-seven and seventy-one one-hundredths feet westward from the west side of Sixty-sixth street; thence westwardly along the southerly side of City avenue to the place of beginning.

SECT. 2. The Department of Public Works (Board of Surveyors) is hereby authorized to revise the lines and grades of the streets that are now within the lines of Cobb's Creek and Morris Parks and the additions thereto, and to make the necessary revision of the lines and grades of streets adjacent thereto and to place such boundary streets upon the plan as in its judgment are necessary.

*Ordinance of December 2, 1911. Ordinances 1911,  
page 520.*

### AN ORDINANCE

To authorize the acceptance of an offer made by the Girard Trust Company et al., Trustees, to dedicate and convey to the City of Philadelphia land contained within the boundaries of Morris Park, and streets and avenues in the Thirty-fourth Ward in the neighborhood thereof, upon the terms and conditions contained in said offer; and directing the City Solicitor to prepare and have executed the necessary deeds and other instruments, in writing, to carry such offer into effect.

WHEREAS, The Girard Trust Company et al., Trustees, under a certain deed of trust bearing date the seventh day of December, A. D. 1910, made, executed and delivered by Mary Morris et al., being the heirs of Wistar Morris, deceased, to the said trustees, and recorded in the office for the recording of deeds in and for the County of Philadelphia in Deed Book W. S. V., No. 1420, page 170, etc., by and through Messrs. Wendell & Wright, the agents of the said trustees, offered to dedicate and convey unto the City of Philadelphia certain tracts or pieces of land contained in Morris Park and certain streets or highways of the Thirty-fourth Ward in the neighborhood thereof, upon terms and conditions set forth in a letter directed to the Mayor, dated July 13, 1911, of the following tenor:

*Philadelphia, July 13, 1911.*

TO THE HONORABLE JOHN E. REYBURN,  
Mayor of the City of Philadelphia.

DEAR SIR:—The undersigned beg leave to submit to your consideration the following letter, written by them as agents for the Girard Trust Company et al., Trustees under a certain deed of trust bearing date the seventh day of December, A. D. 1910, made, executed and delivered by Mary Morris et al., being the heirs of Wistar Morris, deceased, to the said Trustees, and recorded in the office for the recording of deeds in and for the County of Philadelphia in Deed Book W. S. V., No. 1420, page 170, etc.

The trustees under said deed of trust have under consideration certain improvements east and west of the proposed Morris Park, as the same is now laid down on the confirmed City plan. They have entered into a formal contract with us to carry out these contemplated improvements. In order that our work may be done in the most advantageous way possible, not only to the Morris property, but also to the said Morris Park, we believe that changes should be made in the boundaries of the said park, as the same now appear on the confirmed City plan.

The changes we suggest are as follows:

First. That the easterly boundary of the park, between a point one hundred feet south of the southerly side of Overbrook avenue and the southern boundary of said park, be changed so that the same will be situate two hundred feet west of Sixty-sixth street (see plan).

Second. That the small area at the northwest corner of Sixty-ninth street and Overbrook avenue, north of said Overbrook avenue and west of said Sixty-ninth street, be stricken off the plan of the said park and accordingly revert to the said trust estate (see plan).

Third. That the western boundary south from the southerly side of Overbrook avenue be moved eastward seventy-five feet (see plan).

If these changes, as above indicated, are made by the City, we are authorized to say that the trustees under the said deed of trust are willing to dedicate to the City for park purposes the tract of land on the south side of City avenue, between the boundary of Morris Park, as the same now appears on the confirmed City plan, and Sixty-ninth street, upon which said tract certain farm buildings are now erected; said buildings, except the dwelling house, to be torn down and removed at the expense of the trust estate, the right so to do to be expressly reserved.

We are also authorized to say that the said trustees, if and provided the City of Philadelphia will make certain improvements hereinafter mentioned, are willing to dedicate—

(1) To the said City, for park purposes, the entire tract of land contained within the boundaries of Morris Park, as the same will appear upon the City plan, when the three changes first hereinabove mentioned are made. This tract comprises more than twenty acres and is, in our opinion, of more than usual value.

(2) To dedicate to the said City the south one-half of City avenue, as eighty feet wide, as shown on the confirmed City plan, from Lancaster avenue to the western limits of the land late of Wistar Morris, deceased, west of Seventy-third street.

(3) To dedicate to the said City, Overbrook avenue, from Sixty-sixth street to Seventy-first street.

(4) To grade and improve, under City inspection, said Overbrook avenue, from a point situate at the intersection of the southerly side of said Overbrook avenue and the western boundary of the said Morris Park, as the same

will appear upon the City plan when the three changes first hereinabove mentioned are made, to Seventy-first street.

(5) To dedicate to the said City, grade and improve, under City inspection, Sixty-fourth street, from said City avenue southeastward to the southerly boundary of the land late of Wistar Morris, deceased, as the same is situate at said Sixty-fourth street.

(6) To dedicate to the said City Sixty-ninth street, from Overbrook avenue to City avenue.

(7) To dedicate to the said City, grade and improve, under City inspection, two cross streets, from Overbrook avenue to City avenue, between Sixty-ninth street and Seventy-first street, said cross streets to be located by the said trustees.

(8) To dedicate to the said City, grade and improve, Seventy-first street, from Overbrook avenue to City avenue.

(9) To dedicate to the said City, grade and improve, Church road (see plan), from Lancaster avenue to City avenue; the trustees, however, expressly reserving the right to remove from said Church road, as the same is indicated on the plan annexed hereto, a certain dwelling house, situate about one hundred and fifty feet west of the westerly side of Lancaster avenue, and known as the Wayside Cottage, said dwelling house to continue to be the property of the said trust estate, to be used and disposed of as to the said trustees may seem wise.

The improvements which the said trustees require the City of Philadelphia to make, in part consideration, etc., etc., as enumerated in the paragraphs last hereinbefore set forth, numbers one to nine, inclusive, are as follows:

(1) To grade, macadamize and sewer the south half of City avenue, as eighty feet wide, as is shown on the City

plan, from Lancaster avenue to Sixty-ninth street; it being our understanding that Lower Merion Township will co-operate with the City of Philadelphia and improve in the same manner the north half of City avenue, as eighty feet wide, from Lancaster avenue to Sixty-ninth street.

(2) To grade and macadamize the south half of City avenue, from Sixty-ninth street to the western limits of the land late of Wistar Morris, situate on the southerly side of said City avenue.

(3) To construct a new bridge on City avenue, over Indian Run west of Sixty-sixth street, and to provide, in the construction of said bridge, suitable housing for the pumping plant belonging to the said trust estate and located at this point, it being our understanding that one-half of the cost of the erection of said bridge will be paid by Lower Merion Township.

(4) To grade, macadamize and sewer Overbrook avenue, from Sixty-sixth street to the point of intersection of the southerly side of said Overbrook avenue and the western boundary of the said Morris Park, as the same will appear on the City plan, when the three changes in the boundary thereof first hereinbefore mentioned have been made, and to construct a new bridge over said Indian Run on the line of said Overbrook avenue.

(5) To grade, macadamize and sewer Sixty-ninth street, from Overbrook avenue to City avenue.

(6) To sewer Sixty-fourth street, from Overbrook avenue north to the southerly boundary of the land late of Wistar Morris, deceased, as the same is situate at Sixty-fourth street.

In view of the fact that roads which are to be graded and macadamized from gutter or curb to gutter or curb, are to be finished with a patent surface by the trust estate,

as hereinbefore provided, it is the opinion of the trustees that

(7) The roads to be graded and macadamized by the City, as hereinbefore provided, should be macadamized from gutter or curb to gutter or curb and finished with a patent surface, to make the same conform with the finish of the other roads to be graded and macadamized by the said trust estate.

The title to the land included in Morris Park, as the same will be when its boundaries have been changed, as hereinbefore mentioned, to pass to the City of Philadelphia, and proper conveyance to said City shall be made by said trustees immediately upon the due acceptance by the said City of the terms and conditions set forth in this letter, subject, however, to the definite condition subsequent that, unless all and every the improvements to be made by the said City as hereinbefore provided are substantially completed within three years from and after the date of the acceptance of the terms and conditions herein contained by the Select and Common Councils of said City, said land to revert to and become the property of the said trustees and said trust estate.

We would request that suitable ordinances be passed by the Select and Common Councils of the City of Philadelphia—

First. Accepting the general proposition outlined in this letter; and,

Second. Authorizing the revision of the boundaries of Morris Park, as hereinbefore suggested; and,

Third. Providing for the carrying out of the improvements to be made by the said City of Philadelphia, as herein outlined, at the earliest possible date; and,

Fourth. Authorizing the revision of the grade of City avenue, from Lancaster avenue to Haverford street, and of the streets adjacent thereto, and placing of the new streets hereinbefore mentioned upon the said plan.

The trustees above mentioned authorize us to say that the proposition set forth in this letter will remain open for acceptance by the City for a reasonable time; it is, of course, understood that this proposition could not remain open indefinitely.

If this letter and the propositions it contains meet with your approval, will you kindly forward the same to Councils.

Yours very respectfully,

WENDELL & WRIGHT.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the said offer contained in the letter above referred to be, and the same is hereby accepted.

SECT. 2. The City Solicitor be, and he is hereby authorized and directed to prepare and have executed such deed or deeds or other instruments of writing as may be requisite or proper to carry into effect the said offer and this acceptance thereof.

*Ordinance of March 14, 1912. Ordinances 1912, page 20.*

## AN ORDINANCE

To revise the boundaries of Morris Park.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the Department of Public Works (Board of Surveyors) be authorized to revise the boundaries of Morris Park in conformity with the terms and conditions of an ordinance, approved the second day of December, 1911, entitled "An Ordinance to authorize the acceptance of an offer made by the Girard Trust Company et al., Trustees, to dedicate and convey to the City of Philadelphia land contained within the boundaries of Morris Park and streets and avenues in the Thirty-fourth Ward in the neighborhood thereof, upon terms and conditions contained in said offer; and directing the City Solicitor to prepare and have executed the necessary deeds and other instruments in writing to carry such offer into effect."<sup>1</sup>

<sup>1</sup>Ante, page 119.

*Ordinance of March 19, 1912. Ordinances 1912, page 21.*

## AN ORDINANCE

To repeal portion of ordinance approved December 2, 1911, entitled "An Ordinance to place on the City plan as a public park certain tracts of land in the Thirty-fourth Ward, as additions to Cobbs Creek Park and Morris Park, and to make the necessary revision of lines and grades of streets."

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That so much of the ordinance approved December 2, 1911, entitled "An Ordinance to place on the City plan as a public park certain tracts of land in the Thirty-fourth Ward, as additions to Cobbs Creek Park and Morris Park, and to make the necessary revision of lines and grades of streets," as reads as follows: "Also, beginning at the north corner of Lansdowne avenue and Race street; thence northwestward along the northeast side of Race street to City avenue; thence southwestward along City avenue to the northeast line of Arch street; thence southeastward along the northeast line of Arch street to the northwest side of Lansdowne avenue; thence northeastward along the northwest side of Lansdowne avenue to the place of beginning,"<sup>1</sup> be, and the same is hereby repealed.

<sup>1</sup>Ante, page 116.

*Ordinance May 27, 1912. Ordinances 1912, page 113.*

### AN ORDINANCE

To confer upon the Commissioners of Fairmount Park the care and management of Morris Park, in the Thirty-fourth Ward.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the care and management of Morris Park, in the Thirty-fourth Ward, is hereby conferred upon the Commissioners of Fairmount Park, who shall exercise the same powers and authority over said Park as they now have over Fairmount Park.

## PENNYPACK PARK

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*Ordinance of March 20, 1905. Ordinances 1905, page 37.*

### AN ORDINANCE

To place upon the City plan a certain tract of ground as an open public place and park along Pennypack Creek in the Thirty-fifth Ward, for the health and enjoyment of the people, and the preservation of the purity of the water supply of the City; also, to lay out upon the plan the necessary driveways and boundary avenues along said creek.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the Department of Public Works (Board of Surveyors) be authorized and directed to place upon the City plan as a park, all those certain tracts of ground situate along both sides of Pennypack Creek between Frankford avenue and Pine road, of such widths that by passing the boundary lines generally along the crests of the heights, which are on either side of the creek, the purity of the water of the creek may be protected and thus the beauty of the scenery preserved. The lines thus determined and established upon the City plan shall define the limits of the park to be taken by this ordinance. The Department of Public Works (Board of Surveyors) is further authorized to lay out upon the plan the necessary driveways and boundary avenues along said Pennypack Creek.

*Ordinance of July 10, 1907. Ordinances 1907, page 179.*

## AN ORDINANCE

Selecting and appropriating a certain tract of ground along the Pennypack Creek in the Thirty-fifth Ward as a park and open public place for the health and enjoyment of the people, as authorized to be placed upon the City plan by Ordinance approved March 20, 1905.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by the fourth section of an Act of Assembly approved May 13, 1857, they do select and appropriate, for park purposes and for the health and enjoyment of the people forever, a certain tract of ground lying along both side of the Pennypack Creek between Welsh road and Bustleton avenue, in the Thirty-fifth Ward as authorized to be placed upon the City plan by Ordinance approved March 20, 1905, bounded by certain streets now upon the City plan, or projected, and described as follows: Beginning at the point of intersection of the center line of Welsh road and the northeast line of Cresco avenue, thence extending along the said northeast line of Cresco avenue, north  $77^{\circ} 41' 51.76''$  west 752.562 feet; thence still along the same on a line curving to the westward and southward with a radius of 780 feet 984.135 feet to a point in the east line of Rhawn street (70 feet wide); thence still along the said curving line 170.467 feet to the west line of Rhawn street; thence along the west line of Rhawn street as now upon the City plan of the width of 70 feet and along a line curving to the westward

with a radius of 830 feet 89.715 feet to a point; thence still along the same along a line curving to the southward and eastward with a radius of 770 feet 473.444 feet to a point in the northwest line of Rowland avenue as the same is now upon the City plan of the width of 60 feet; thence along the line of Rowland avenue south  $60^{\circ} 49' 18''$  west 580.272 feet to a point; thence north  $29^{\circ} 10' 42''$  west 20 feet to a point at the intersection of the northwest line of Rowland avenue (80 feet wide) and the northwest line of Hartel avenue (80 feet wide); thence along the line of Hartel avenue the following courses and distances: along a line curving to the northward with a radius of 702.667 feet 1028.172 feet; thence along a line curving to the westward with a radius of 481.493 feet 405.597 feet; thence north  $83^{\circ} 36' 18.5''$  west 264.56 feet; thence along a line curving to the northward with a radius of 200 feet 285.41 feet; thence along a line curving to the westward with a radius of 577.834 feet 799.668 feet; thence north  $81^{\circ} 07' 59.7''$  west 421.885 feet; thence along a line curving to the southward with a radius of 380 feet 183.133 feet; thence along a line curving to the westward and northward with a radius of 298.122 feet 548.764 feet to a point in the southeast line of Lexington avenue (80 feet wide); thence along the line of Lexington avenue north  $64^{\circ} 29' 17.8''$  east 861.547 feet; thence along a line curving to the northward and westward with a radius of 480 feet 592.714 feet; thence along a line curving to the northward and eastward with a radius of 401.99 feet 302.753 feet; thence crossing Rhawn street north  $36^{\circ} 53' 23''$  east 516.284 feet to the northeast line of Rhawn street (70 feet wide); thence along a line curving to the northward and westward with a radius of 330 feet 287.979 feet; thence along a line curving to the northward and eastward with a radius of 260.629 feet 186.544 feet; thence north  $27^{\circ} 53' 56''$  east 696.71 feet; thence along a line curving to the

northward with a radius of 580 feet 228.189 feet; thence north  $5^{\circ} 21' 25.5''$  east 1,333.552 feet; thence along a line curving to the northward and eastward with a radius of 1,000 feet 698.221 feet; thence north  $34^{\circ} 38' 53''$  west 940.08 feet; thence along a line curving to the westward and southward with a radius of 780 feet 853.113 feet; thence south  $82^{\circ} 41' 08''$  west 296.226 feet; thence along a line curving to the westward and northward with a radius of 135.892 feet 106.719 feet; thence north  $52^{\circ} 19' 07''$  west 1,102.671 feet to the southeast line of Large avenue (80 feet wide); thence along the line of Large avenue north  $37^{\circ} 40' 53''$  east 229.349 feet; thence still along the same on a line curving to the northward and westward with a radius of 630 feet 618.501 feet; thence still along the same north  $18^{\circ} 34' 07''$  west 453.433 feet to the southeast line of Castor avenue (80 feet wide); thence along the said line of Castor avenue north  $37^{\circ} 40' 53''$  east 284.912 feet to the southwest line of Evarts avenue (80 feet wide); thence along the line of Evarts avenue south  $52^{\circ} 19' 07''$  east 457.007 feet; thence still along the same on a line curving to the eastward and northward with a radius of 200 feet 366.519 feet to the southeast line of Benton avenue (80 feet wide); thence along the line of Benton avenue north  $22^{\circ} 40' 53''$  east 571.345 feet; thence still along the same on a line curving to the northward and westward with a radius of 498.778 feet 449.579 feet; thence still along the same north  $28^{\circ} 57' 46''$  west 833.469 feet to the center line of Bustleton avenue; thence along the said center line the following courses and distances: North  $33^{\circ} 28' 44''$  east 270 feet; thence north  $53^{\circ} 57' 44''$  east 407.49 feet; thence north  $60^{\circ} 09' 08.45''$  east 174.62 feet; thence north  $37^{\circ} 51' 48.45''$  east 238.819 feet to the southwest line of Winchester avenue (80 feet wide); thence along the line of Winchester avenue the following courses and distances: South  $26^{\circ} 56' 02.68''$  east 1,765.378 feet;

thence along a line curving to the southward and westward with a radius of 200 feet 252.574 feet; thence south  $45^{\circ} 25' 21.45''$  west 379.224 feet; thence along a line curving to the southward and eastward with a radius of 587.131 feet 990.93 feet; thence south  $51^{\circ} 16' 41.55''$  east 2,442.038 feet; thence along a line curving to the southward with a radius of 1,000 feet 813.905 feet; thence south  $4^{\circ} 38' 41.55''$  east 662.77 feet; thence along a line curving to the southward and westward with a radius of 800 feet 359.957 feet; thence south  $21^{\circ} 08' 06.45''$  west 727.562 feet; thence along a line curving to the southward and eastward with a radius of 580 feet 343.709 feet; thence south  $12^{\circ} 49' 07''$  east 312.092 feet; thence south  $29^{\circ} 54' 53.6''$  west 1,119.201 feet; thence along a line curving to the southward and eastward with a radius of 584.114 feet 646.839 feet; thence along a line curving to the southward and westward with a radius of 192.24 feet 225.764 feet; thence along a line curving to the southward, eastward and northward with a radius of 281.617 feet 869.313 feet; thence along a line curving to the eastward with a radius of 1,090 feet 659.826 feet; thence along a line curving to the eastward and southward with a radius of 50 feet 78.477 feet; thence south  $18^{\circ} 29' 54''$  east 232.942 feet; thence along a line curving to the eastward with a radius of 342.287 feet 466.641 feet; thence along a line curving to the eastward and southward with a radius of 1,000 feet 405.789 feet; thence south  $73^{\circ} 21' 33.7''$  east 736.632 feet to the center line of Welsh road; thence along the center line of Welsh road the following courses and distances: South  $14^{\circ} 52' 41''$  east 465.602 feet; thence south  $11^{\circ} 44' 06''$  east 265.33 feet; thence south  $8^{\circ} 00' 54''$  west 124.448 feet to the northeast line of Cresco avenue and the place of beginning, containing 477 acres more or less.

SECT. 2. The City Solicitor is hereby directed to file in the Court of Quarter Sessions a petition on behalf of the City setting forth the ground herein appropriated to the end that said Court shall appoint a jury to assess the damages as provided by law.

*Ordinance of April 12, 1909. Ordinances 1909, page 98.*

## AN ORDINANCE

Selecting and appropriating a certain tract of ground along the Pennypack Creek, in the Forty-first Ward, as a park- and open public place for the health and enjoyment of the people, and directing the Commissioners of Fairmount Park to assume the custody and maintenance of Pennypack Park.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by the fourth section of an Act of Assembly, approved May 13, 1857, they do select and appropriate, for park purposes and for the health and enjoyment of the people forever, a certain tract of ground, being part of a larger tract placed upon the City plan for such purposes by confirmation of the Board of Surveyors, November 16, 1908, lying along both sides of the Pennypack Creek, in the Forty-first Ward, bounded and described as follows: Beginning at the point of intersection of the center line of Frankford avenue and the west line of Enfield avenue; thence extending along the said west line of Enfield avenue south  $0^{\circ} 36' 13''$  west 831.298 feet; thence still along the same and along a line curving to the westward with a radius of 450 feet 120.0 feet; thence still along the same south  $15^{\circ} 52' 57''$  west 675.565 feet; thence still along the same south  $32^{\circ} 11' 35''$  east 400.0 feet to the northwest line of Torresdale avenue; thence along the same south  $57^{\circ} 48' 25''$  west 580.204 feet to the northeast side of Pennypack Creek; thence down the same the

following courses and distances: South  $13^{\circ} 32' 35''$  east 394.600 feet; thence south  $1^{\circ} 02' 05''$  east 259.260 feet; thence south  $24^{\circ} 54' 55''$  west 402.750 feet; thence south  $4^{\circ} 53' 25''$  west 145.460 feet; thence south  $35^{\circ} 39' 35''$  east 112.870 feet; thence north  $88^{\circ} 58' 25''$  east 298.420 feet; thence south  $87^{\circ} 21' 35''$  east 314.650 feet; thence south  $76^{\circ} 21' 35''$  east 144.940 feet; thence south  $63^{\circ} 27' 35''$  east 204.570 feet; thence south  $36^{\circ} 53' 35''$  east 59.563 feet to the northwest line of State road as now open of the width of fifty feet; thence along the same south  $55^{\circ} 47' 15''$  west 974.804 feet to the north line of Holmesburg avenue; thence along the same north  $34^{\circ} 05' 57''$  west 924.897 feet to the north line of Hegerman street, produced; thence along the same north  $75^{\circ} 39' 15''$  west 228.709 feet to the east line of the right-of-way of the Bustleton Branch of the Connecting Railway; thence along the same the following courses and distances: By a line curving to the northward with a radius of 1,062.700 feet 47.093 feet; thence north  $1^{\circ} 17' 20''$  east 1,154.468 feet; thence north  $62^{\circ} 28'$  east 26.354 feet; thence north  $0^{\circ} 04' 30''$  west 520 feet more or less to the south line of Cottage street; thence northeastward along the same the various courses and distances thereof 550 feet more or less to the center line of Pennypack Creek; thence up the same the various courses and distances thereof 1,450 feet, more or less, to the center line of Frankford avenue; thence northeastward along the same the various courses and distances thereof 170 feet more or less, to the west line of Enfield avenue and the place of beginning, containing 55 acres more or less: *Provided*, That the appropriation by the City of the said tract of ground shall not interfere with or abridge the existing franchises of the Philadelphia and Trenton Railroad Company to construct, maintain and operate their lines of railroad over, across or through the same.

SECT. 2. The City Solicitor is hereby directed to file in the Court of Quarter Sessions a petition on behalf of the City setting forth the ground herein appropriated, to the end that the said Court shall appoint a jury to assess the damages as provided by law.

SECT. 3. As soon as the City shall become legally possessed of the tract of ground herein described, the said tract, together with the tract along the Pennypack Creek, appropriated for similar purposes by ordinance approved July 10, 1907, shall be named Pennypack Park and shall be placed under the control of the Commissioners of Fairmount Park, subject to such rules and regulations as have been, or shall be from time to time established by the said Commissioners for the care, management and maintenance of Fairmount Park: *Provided, however,* That such control shall not extend over streets or roads now upon the City plan, or hereafter placed thereon, as public highways over, across or through the said park.

SECT. 4. All ordinances or parts of ordinances inconsistent herewith be, and the same are hereby repealed.

## WISTER'S WOODS

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*Ordinance of March 12, 1907. Ordinances 1907, page 79.*

### AN ORDINANCE

To authorize the placing on the City plan Wister's Woods Park, in the Forty-second Ward.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the Department of Public Works (Board of Surveyors) be authorized and directed to place upon the City plan Wister's Woods Park, bounded by Fisher's lane or East Logan street, the Philadelphia and Reading Railway, Wister street, Stenton avenue, Bellfield and Somerville avenues and Nineteenth street.

*Ordinance of December 1, 1911. Ordinances 1911,  
page 482.*

## AN ORDINANCE

Selecting and appropriating two certain tracts of ground, in the Twenty-second and Forty-second Wards, as a park and open public place for the health and enjoyment of the people, authorizing the placing of the same upon the City plan and directing the Commissioners of Fairmount Park to assume the custody and maintenance of the same.

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That by virtue and in pursuance of the authority vested in them by the fourth section of an Act of Assembly approved May 13, 1857, they do select and appropriate for park purposes and for the health and enjoyment of the people forever, all those two certain tracts of ground lying in the Twenty-second and Forty-second Wards, and bounded and described as follows:

One of them beginning at a point, the intersection of the southeast side of Wister street (forty feet wide) and the southwest side of Duncannon street (fifty feet wide); thence extending along the southeast side of said Wister street, crossing Duncannon street, north forty degrees four minutes east one hundred and thirty-four feet four and one-fourth inches to an angle; thence still along the southeast side of said Wister street north forty degrees twenty-one minutes east two hundred and fourteen feet eight inches to a point in the westerly right-of-way line of

the Germantown Branch of the Philadelphia and Reading Railway; thence extending along the said right-of-way line the ten following courses and distances; south sixty-three degrees twenty-seven minutes east one hundred feet, south forty-five degrees seventeen minutes east one hundred feet, south fifty degrees thirteen minutes east one hundred feet, south thirty-eight degrees thirty-four minutes east one hundred feet, south thirty-one degrees forty-three minutes east one hundred feet, south twenty-one degrees twenty-four minutes east one hundred feet, south fifteen degrees nineteen minutes east one hundred feet, south four degrees fourteen minutes east one hundred feet, south one degree forty-three minutes six seconds east one hundred feet, south one degree ten minutes west twenty-nine feet and three-fourths of an inch to a point in the northerly line of said Duncannon street (fifty feet wide), as formerly on City plan; thence extending along the northerly side of Duncannon street north seventy-eight degrees forty minutes and twenty seconds west sixteen feet five and three-eighths inches to an angle; thence crossing said Duncannon street south forty-two degrees fifty minutes three seconds west fifty feet and three-fourths of an inch to a point of intersection in the southwest side of Duncannon street and the northwest side of Shedaker street; thence extending along the northwest side of Shedaker street south thirty-nine degrees twenty-nine minutes west one hundred and forty-nine feet four and five-eighths inches to a point; thence extending north forty-nine degrees fifty-seven minutes fifty seconds west four hundred and eighty feet four inches to a point; thence extending north forty degrees four minutes east one hundred and forty-nine feet seven and five-eighths inches to a point in the southwest side of said Duncannon street (fifty feet wide); thence extending along the southwest side of said Duncannon street north forty-nine degrees fifty-six min-

utes west three hundred and twenty feet to a point in the southeast side of the said Wister street, the first mentioned point and place of beginning.

The other of them being all that certain tract of ground known as Wister's Woods Park, as placed upon the City plan by confirmation by the Board of Surveyors July 1, 1907, under authority of an ordinance of Councils approved March 12, 1907, and bounded, generally, by East Logan street, the right-of-way of the Germantown Branch of the Philadelphia and Reading Railway, Wister street, Somerville avenue and Nineteenth street.

SECT. 2. The City Solicitor is hereby directed to file in the Court of Quarter Sessions a petition on behalf of the City, setting forth the ground herein appropriated, to the end that the said Court shall appoint a jury to assess the damages as provided by law.

SECT. 3. As soon as the City shall become legally possessed of the tracts of ground herein described, the said tracts shall be named Wister's Woods Park, and shall be placed under the control of the Commissioners of Fairmount Park, subject to such rules and regulations as have been or shall be from time to time established by the said Commissioners for the care, management and maintenance of Fairmount Park: *Provided, however,* That such control shall not extend over streets or roads now upon the City plan or hereafter placed thereon as public highways over, across or through the said park.

SECT. 4. The Department of Public Works (Board of Surveyors) is hereby authorized to place the tract of ground herein described upon the City plan, for the objects and purposes hereinafter recited.

SECT. 5. All ordinances or parts of ordinances inconsistent herewith be, and the same are hereby repealed.

## FISHER PARK

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*Ordinance of March 29, 1909. Ordinances 1909, page 40.*

### AN ORDINANCE

To accept the gift from the late Joseph Wharton and his family of about twenty-five acres of ground in the Forty-second Ward, near the North Penn Branch of the Reading Railroad, for a public park, to be called "Fisher Park."

WHEREAS, The late Joseph Wharton, by letter to the Hon. John E. Reyburn, Mayor of Philadelphia, dated December 21, 1908, made a most generous offer of a beautiful tract of ground, about twenty-five acres in extent, located near the North Penn Branch of the Reading Railroad where it crosses Green lane, to be used as a public park;

AND WHEREAS, The Select and Common Councils of the City of Philadelphia deeply appreciate the generosity displayed by Mr. Wharton in making this offer, and by his family in their willingness to complete the gift, and desire to express hereby the gratitude of the City for the benefaction; therefore,

SECTION 1. *The Select and Common Councils of the City of Philadelphia do ordain*, That the offer of the late Joseph Wharton and his family, contained in a letter from Mr. Wharton to the Mayor of Philadelphia, dated December 21, 1908, and ratified by the said family since

his death, to convey to the City, for park purposes, a tract of ground about twenty-five acres in extent, in the Forty-second Ward, located near the North Penn Branch of the Reading Railroad where it crosses Green lane, as a park for public use is hereby accepted, and the City of Philadelphia will properly maintain said tract of ground as a park for public use under the name of "Fisher Park."

SECT. 2. The Department of Public Works (Bureau of Surveys) is hereby authorized and directed to place the said park on the City plan, under the name of "Fisher Park."

SECT. 3. Upon the execution and delivery to the City of a deed of conveyance for said tract of ground, the Commissioners of Fairmount Park are hereby authorized and directed to assume the care, management and maintenance of the said "Fisher Park."



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